

SALES AGREEMENT DE-SC30-10CC40098

SALE OF GOVERNMENT PROPERTY NEGOTIATED SALES AGREEMENT		<u>AGREEMENT NUMBER</u> DE-SC30-10CC40098		Page 1 of 26	
This contract is entered into by and between the U.S. Department of Energy (DOE), represented by the Contracting Officer executing this Agreement identified below. The U.S. DOE agrees to sell and the Buyer agrees to buy the material described below in accordance with the terms and conditions of this Agreement.					
SCHEDULE					
ITEM	PROPERTY DESCRIPTION	QUANTITY (approximate)	UNIT	UNIT PRICE	AMOUNT
1	Nickel Lot 1 from Paducah GDP	9,700	Tons	\$ _____	\$ _____
2	Nickel Lot 2 from ETPP	5,600	Tons	\$ _____	\$ _____
	Total (Lot 1 + Lot 2):				\$ _____
	WIRE TRANSFER INFORMATION: TO BE PROVIDED AT CONTRACT AWARD				

EXECUTION BY BUYER		EXECUTION BY SELLER	
DATE (DAY, MONTH, YEAR)		UNITED STATES OF AMERICA BY:	
NAME OF BUYER		DATE:	
ADDRESS (STREET, CITY, STATE AND ZIP, COUNTRY) _____		NAME AND TITLE OF CONTRACTING OFFICER	
TELEPHONE NUMBER: _____			
FACSIMILE NUMBER: _____			
<i>SIGNATURE AND TITLE OF PERSON AUTHORIZED TO SIGN THIS AGREEMENT (Type or print name and title under signature)</i>			
NAME:			
TITLE:			
SIGNATURE:			

TABLE OF CONTENTS

INTRODUCTION.....	4
ARTICLE I. DEFINITIONS	5
ARTICLE II. (Reserved)	7
ARTICLE III. TERM OF AGREEMENT	7
ARTICLE IV. RECEIPT, QUANTITY AND SCHEDULE	7
ARTICLE V. RECEIVING/TRANSPORTATION/STORAGE	8
ARTICLE VI. SALES PRICE	10
ARTICLE VII. TITLE TRANSFER AND PAYMENT	11
ARTICLE VIII. AVAILABILITY OF FACILITIES AND UTILITIES/INTERFACES.....	12
ARTICLE IX. DISPUTES	14
ARTICLE X. LICENSES	15
ARTICLE XI. CONTROL REQUIREMENTS FOR DISPOSITION OF THE NICKEL.....	15
ARTICLE XII. PROPERTY CONTROL REQUIREMENTS	17
ARTICLE XIII. EXCUSABLE DELAYS	19
ARTICLE XIV. MATERIAL FOR RESTRICTED APPLICATIONS.....	20
ARTICLE XV. TERMINATION - SUSPENSION	20
ARTICLE XVI. TAXES	21
ARTICLE XVII. APPLICABLE LAW.....	21
ARTICLE XVIII. SECURITY REQUIREMENTS.....	21
ARTICLE XIX. NOTICES	23
ARTICLE XX. ASSIGNMENT	23
ARTICLE XXI. WAIVER.....	23
ARTICLE XXII. OFFICIALS NOT TO BENEFIT.....	23
ARTICLE XXIII. COVENANT AGAINST CONTINGENT FEES	24
ARTICLE XXIV. INDEMNIFICATION/HOLD HARMLESS CLAUSE.....	24
ARTICLE XXV. FINANCIAL SURETY	25

SALES AGREEMENT DE-SC30-10CC40098

ARTICLE XXVI. AGREEMENT EXECUTION DOCUMENTS	25
ARTICLE XXVII. COMMUNITY COMMITMENT	25
ARTICLE XXVIII. ENTIRE AGREEMENT	26
Exhibit 1- RADIOLOGICAL PROPERTIES AND PURITY OF THE PADUCAH NICKEL INGOTS	E-2
Exhibit 2 - LIST OF APPLICABLE LAWS, REGULATIONS, AND DOE DIRECTIVES.....	E-6
Exhibit 3 – BUYER DELIVERABLES.....	E-10
Exhibit 4 – DOE FORM 580.1, U.S. DEPARTMENT OF ENERGY END-USE CERTIFICATE	E-12
Exhibit 5 – PERFORMANCE BOND	E-16
Exhibit 6 – PRICE, QUANTITY AND PAYMENT TABLES	E-18
Exhibit 7 – COMMUNITY COMMITMENT PLAN	E-19
ATTACHMENT 1 - PROPOSAL PREPARATION INSTRUCTIONS	A-2
ATTACHMENT 2 – AGREEMENT EXECUTION DOCUMENTS.....	A-18
ATTACHMENT 3 - COMPETITIVE AWARD DECISION FACTORS.....	A-30
ATTACHMENT 4 - BUYER EXPERIENCE AND PAST PERFORMANCE REFERENCE INFORMATION WORKSHEET	A-36
ATTACHMENT 5 - BUYER PAST PERFORMANCE LETTER & QUESTIONNAIRE.....	A-37

SALES AGREEMENT DE-SC30-10CC40098

INTRODUCTION

This **SALES AGREEMENT** (or "Agreement") is between the Department of Energy (DOE or the "Seller") and the party identified on the signature page of this Sales Agreement (the "Buyer"). In accordance with 41 Code of Federal Regulations (CFR) 102-38, Sale of Personal Property, and 41 CFR 109, Subchapter H, Utilization and Disposal of Hazardous Materials and Certain Categories of Property, the Seller offers for sale approximately 15,300 U.S. tons (2,000 pounds per ton) of classified and contaminated nickel scrap, including approximately 5,600 tons of shredded nickel scrap currently stored at the East Tennessee Technology Park (ETTP) in Oak Ridge, Tennessee and approximately 9,700 tons of nickel ingots and the associated molds currently stored at the Paducah Gaseous Diffusion Plant (GDP) in Paducah, Kentucky (collectively, the "Nickel").

The Buyer must declassify and decontaminate the Nickel prior to gaining title. The Nickel is volumetrically contaminated with relatively low levels of uranium and technetium, with trace quantities of neptunium and plutonium. In addition, the Nickel is classified and must be managed and processed accordingly. The Title Transfer and the sale will occur only upon DOE certification of declassification and decontamination of the Nickel and compliance with DOE property management requirements. The Buyer bears responsibility, and cost, for all aspects of the Nickel disposition and its secondary wastes and products. The Nickel shall be transported, processed, and/or reused/recycled into products that shall be used in radiologically-controlled applications. This material is NOT intended for unrestricted release for recycling into commerce and NO Nickel disposition activities shall be performed outside of the United States.

The parties to this Sales Agreement are legally bound as of the date the Sales Agreement is executed by the Contracting Officer (CO) and provided to the Buyer.

NOTE: Specific points of contact are identified throughout this Sales Agreement. Additionally, current contractor names and contractor points of contact are also included as applicable. These points of contact and contractors are current at the time of award and could change at any time after award.

ARTICLE I. DEFINITIONS

“AEA” means the Atomic Energy Act of 1946, as amended.

“Agreement State” means a state that has entered into agreements with the U.S. Nuclear Regulatory Commission that gives the state the authority to license and inspect byproduct, source, or special nuclear materials used or possessed within the state’s borders.

“ALARA” (acronym for "as low as is reasonably achievable") means making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed materials in the public interest. (10 CFR 20.1003, Definitions)

The “Buyer” is the entity which will decontaminate and declassify the Nickel, and which will then purchase the Nickel from DOE through this Sales Agreement.

“CFR” means the U.S. Code of Federal Regulations.

“CO” means the DOE Contracting Officer.

“CSA” means a Cognizant Security Authority.

“Declassification” is defined as the process used to change the physical state of nickel to one that no longer reveals classified information. Declassification will be certified by the cognizant DOE Program Office/Security Authority, upon complete satisfaction of DOE safeguards and security directives, DOE property management requirements, other applicable DOE policy and directives and the approved Security Plan (see Article XVIII).

“Decontamination” or “purification” is defined as the removal or reduction of radioactive or hazardous contamination from facilities, equipment, or soils by washing, heating, chemical or electrochemical action, mechanical cleaning, or other methods to achieve the required end-state level. Decontamination of the Nickel must meet the International Atomic Energy Agency (IAEA) clearance levels for unrestricted release of radioactive material. The Buyer must apply the “as low as is reasonably achievable” (ALARA) principle to determine the appropriateness of decontamination at or below these clearance levels. (see Exhibit 2 for IAEA clearance levels in IAEA Safety Guide RS-G-1.7, Table 2.) Decontamination to the IAEA level will be certified by the cognizant DOE Program Office. See Article XII, Step 2 for an independent verification/confirmation program as a basis for DOE’s certification of decontamination of the product. This term does not include decontamination of DOE facilities where nickel is presently stored, unless such facilities are used by the Buyer for nickel disposition Steps 1-5 as set forth in Article XII.

“Disposition” is defined in this Sales Agreement as the sale of the Nickel to the Buyer for

SALES AGREEMENT DE-SC30-10CC40098

domestic processing, use, management, and disposal under radiological controls.

“DoD” means the U.S. Department of Defense.

“DOT” means the U.S. Department of Transportation.

“EMCBC” means the DOE Office of Environmental Management Consolidated Business Center.

“ES&H” means environmental, safety and health.

“ETTP” or “East Tennessee Technology Park” is a DOE facility located in Oak Ridge, Tennessee.

Financial Assurance is a guarantee or other financial arrangement provided by a U.S. Nuclear Regulatory Commission (or Agreement State) licensee that funds for decommissioning will be available when needed. This is in addition to the licensee's regulatory obligation to decommission its facilities.

“GDP” or “Gaseous Diffusion Plant” means a uranium enrichment plant; currently there are two GDPs, one at Paducah, Kentucky and the other at Portsmouth, Ohio. These plants are owned by the DOE.

“HMRs” means the U.S. Department of Transportation hazardous materials regulations.

“IAEA” means the International Atomic Energy Agency.

“Interface MOU” means a Memorandum of Understanding with a government contractor at the Paducah GDP or ETTP site. See Article VIII.

“Lot 1” is defined as the inventory of approximately 9,700 tons of nickel ingots and the associated molds currently stored at the Paducah GDP in Paducah, Kentucky.

“Lot 2” is defined as the inventory of approximately 5,600 tons of shredded nickel scrap currently stored at the ETTP in Oak Ridge, Tennessee.

The "Nickel" includes the approximately 15,300 tons of nickel scrap DOE has recovered from equipment used in the uranium enrichment processes at the Paducah GDP, ETTP, and Portsmouth GDP. The "Nickel" includes both the nickel scrap and the associated storage containers or molds. See Article VII.E.4 for descriptions of the Nickel inventory.

“NRC” means the U.S. Nuclear Regulatory Commission.

“OPMO” means an Organizational Property Management Officer.

“ORO” means DOE's Oak Ridge Office.

SALES AGREEMENT DE-SC30-10CC40098

“PPPO” means DOE/EM’s Portsmouth/Paducah Project Office.

“QA” means quality assurance.

“Receipt” will occur when the Buyer takes physical possession of the contaminated material. The Buyer shall possess the material in accordance with DOE safeguards and security requirements, the approved Security Plan, and DOE property management requirements. See Articles IV and V for more details of the receiving requirements.

“Seller” is the Department of Energy.

“Sub-Lots” are defined as portions of Lot 1 or Lot 2 as defined by the Buyer, to be delivered for declassification and decontamination.

“Title Transfer” is defined as the transfer of ownership of the Nickel, from the Seller to the Buyer. Title Transfer and sale will occur only upon DOE certification of declassification and decontamination of the Nickel and compliance with DOE property management requirements. The Buyer bears responsibility, and cost, for all aspects of declassification and decontamination as well as its secondary wastes and products, e.g., treatment and disposal of all radioactive and hazardous byproduct and secondary wastes, contaminants, and other secondary material as a result of declassification and decontamination and further processing of the Nickel.

“USC” means the U.S. Code.

“USEC” means the United States Enrichment Corporation. USEC leases the enrichment equipment/facilities at the Paducah GDP.

ARTICLE II. (Reserved)

ARTICLE III. TERM OF AGREEMENT

The term of this Agreement shall begin the day it is executed and will continue until all obligations of the Seller and Buyer under this Agreement have been fulfilled and all end-products are disposed of in regulated facilities.

ARTICLE IV. RECEIPT, QUANTITY AND SCHEDULE

- A. The schedule of key milestones are as identified in Exhibit 3, Buyer Deliverables.
- B. The Buyer fills in the approximate receiving quantities and schedule in Table 2 of Exhibit 6 at time of proposal. A reasonable timeframe for receipt of all of the material is sixty (60) months from the date of initial receipt (i.e., of Sub-Lot Number 1.1). Title transfer of all Nickel shall be completed within ten (10) years from the date of initial receipt.

See Exhibit 6, Table 2, for receiving dates.

ARTICLE V. RECEIVING/TRANSPORTATION/STORAGE

- A. The Nickel shall be physically transferred to the possession of the Buyer at time of receipt of the Nickel (however, title to the Nickel will not transfer at that time; see Article VII). The Buyer shall make arrangements, at its cost, for initial receipt of the first Sub-Lot of the Nickel no later than 365 calendar days after award, consistent with Exhibit 3.
- B. The Buyer is responsible and liable for all Buyer-operated equipment and loading operations, including, but not limited to: abiding by all site policies and protocols; storage of Buyer-owned equipment; maintenance; providing training to DOE site personnel to support disposition on-site or removal of the Nickel from the site; retrieval of material, loading; on-site transportation, if applicable; employee; public and environmental safety; incidents and/or accidents, etc. These responsibilities and liabilities shall be explicitly documented in the Interface Memoranda of Understanding (MOUs) with PPPO and ORO. (see Article VIII).
- C. The Buyer shall accept custody and possession of the Nickel where it is currently located at the Paducah GDP and ETTP. The Buyer may propose to declassify and decontaminate on these two, or any, DOE sites. DOE safeguards and security directives and requirements will be maintained until declassification for each Sub-Lot of Nickel is complete and title is officially transferred (see Article XVIII for Security Requirements).
- D. The Buyer shall be responsible, following receipt, for the transportation of the Nickel from the Paducah GDP and ETTP to the facility (off-site or on-site) where declassification and decontamination will occur. The Buyer shall develop and submit to the DOE a Transportation Plan that includes details on proposed plans to load and ship both lots of Nickel. The Transportation Plan shall implement applicable Federal, State and local transportation requirements and shall include the following considerations:
 - 1. At least five (5) business days prior to the transportation date of the Nickel, the Buyer shall furnish copies of Buyer's commercial bills of lading and shipping information (or on-site equivalent) to the Contracting Officer and the person(s) identified in Article XIX of the Sales Agreement. This shipping information shall include the following:
 - a. Sub-Lot quantity weight of Nickel to be shipped;
 - b. Designation of type and kind of conveyance;
 - c. Name of the carrier (include telephone contact information);
 - d. "Ship to" location;
 - e. Shipping schedule, consistent with Tables 2 and 3 of Exhibit 6;

SALES AGREEMENT DE-SC30-10CC40098

- f. Name and telephone number of a person who can furnish additional shipping information if needed;
 - g. Emergency contact information;
 - h. Security Plan (includes shipping details); and
 - i. Any additional pertinent information.
- 2. The Buyer shall be the shipper of record for the on-site shipment, or the off-site shipment from the DOE site to the Buyer's regulated facility, and is responsible, as applicable, for:
 - a. Any characterization required for shipment;
 - b. Weighing the Nickel with appropriately maintained and calibrated scales. (in accordance with National Bureau of Standards Handbook 145 or National Institute of Standards IR6969, or other certified scales as approved by DOE and documented in the Interface MOUs, e.g., scale calibration weights certificates);
 - c. All aspects of loading and transportation including: removing the material from storage; repackaging if necessary due to the condition of the existing containers; transferring to loading station; loading; and certifying the shipment; and training. The Buyer is responsible for coordinating with the local union, if necessary;
 - d. Determining the appropriate packaging for shipment; inspecting each package to ensure that the closure is proper; marking and labeling each package in accordance with Department of Transportation (DOT) regulations. (The Seller will provide an area at each location designated for this activity.);
 - e. Identification of, and coordination with, all impacted organizations as necessary to complete the disposition of the Nickel (DOE, on-site contractors, USEC, external parties, etc.);
 - f. Preparing necessary shipping papers in accordance with applicable DOT regulations;
 - g. Selecting and providing packaging and conveyance that meets applicable Hazardous Material Regulations and Federal Motor Carrier Safety Administration Regulations;
 - h. Providing instructions for, and conducting and certifying, any required training to DOE, DOE contractors or impacted parties;

SALES AGREEMENT DE-SC30-10CC40098

- i. Providing material handling equipment and labor to sufficiently package and load the material onto the conveyance in accordance with DOT regulations; and
 - j. Closing, sealing, and placarding the conveyance according to applicable DOT requirements.
- E. The Buyer shall be required to comply with all applicable laws, regulations, orders, and directives in the handling and transportation of all of the materials delivered, including, but not limited to, the following: DOE site requirements, if applicable, as well as the requirement of the Hazardous Materials Transportation Act, as amended by the Hazardous Materials Uniform Safety Act of 1990 and other acts (49 USC 5101 et seq.). This law is implemented by the DOT through its hazardous materials regulations (HMRs) (i.e., 49 CFR Parts 171 through 180). The DOT HMRs impose specific packaging requirements of nickel shipments in addition to the otherwise applicable radioactive material transportation requirements.
- F. DOE safeguards and security requirements and property management requirements shall apply from initial receipt of the Nickel until it has been certified as declassified and decontaminated to the appropriate levels by the cognizant DOE Program Office/Security Authority. Once title has been transferred, the material will continue to be subject to the conditions in this contract and, as appropriate, controlled under the Buyer's NRC (or Agreement State) license or under DOE regulations. Depending on the process used, the Nickel may either be declassified and then decontaminated (e.g., two separate steps will be used), or it may be declassified and decontaminated in a single step. Regardless of which process is used, Title Transfer will not occur until the material has been certified as declassified by DOE per DOE safeguards and security requirements and decontaminated to IAEA clearance levels (see Article XII, Step 2), and compliance with DOE property management requirements.
- G. The Buyer shall be responsible for compliance with all applicable access restrictions to the Paducah GDP and ETTP in accordance with statutes, regulations, applicable orders, directives, and the Department's site access requirements at the Paducah GDP and ETTP.

ARTICLE VI. SALES PRICE

- A. The Buyer shall pay the Seller in accordance with this Sales Agreement and in accordance with the price per pound in Tables 1 and 3 of Exhibit 6, and the total actual price as calculated in Article VII.E.
- B. The Buyer will pay all costs applicable to the domestic disposition of this material, from initial receipt to final disposal (Article XII, Steps 1-5), including but not limited to: all construction; operation and decontamination; decommissioning and disposal of all required infrastructure and facilities; loading; weighing; transportation; safeguards; security; taxes; insurance charges; customs; user fees; duties of any kind applicable to the sale and transfer of this material; and treatment and disposal of radioactive and hazardous byproduct and secondary wastes; contaminants and other secondary material as a result of

SALES AGREEMENT DE-SC30-10CC40098

declassification and decontamination and further processing of the Nickel. The Seller is not responsible for any costs incurred by the Buyer prior to, during, or after the execution of this Agreement and will not reimburse the Buyer.

ARTICLE VII. TITLE TRANSFER AND PAYMENT

- A. The Seller shall sell, and Buyer shall pay for, the Nickel quantities once the decontamination and declassification is complete, and in accordance with the terms and conditions of this Sales Agreement. Title Transfer will occur only upon DOE certification of declassification and decontamination of the Nickel and compliance with DOE property management requirements. As part of the sale, the Buyer bears all responsibility, and cost, for declassification and decontamination as well as its secondary wastes and products, e.g., treatment and disposal of all radioactive and hazardous byproduct and secondary wastes, contaminants and other secondary material as a result of declassification and decontamination and further processing of the Nickel.
- B. The final payment amounts shall be paid by the Buyer to the Seller in United States currency by wire transfers (separate for each quantity stated in Tables 2 and 3 of Exhibit 6) without deduction for fees or service charges.
- C. The Seller will retain title to the Nickel until such time as the Nickel is declassified and decontaminated; the Nickel is made available to the Buyer at no-cost during declassification and decontamination. The Seller is not responsible for any costs incurred for declassification and decontamination of the Nickel and as such the Buyer will not receive any reimbursement for any costs associated with the declassification and decontamination of the Nickel. If the declassification and decontamination activities are off DOE site, Nickel must be possessed under the Buyer's facility authorization and the Buyer's NRC (or Agreement State) license. If the declassification and decontamination activities are on a DOE-owned or controlled site, custody and possession of the Nickel must be managed under DOE's regulations. All activities from initial receipt of the Nickel to final disposal (Article XII, Steps 1-5), are the responsibility of the Buyer (e.g., on- and off-DOE-site transportation, inspections, packaging or repackaging, storage, handling, declassification, decontamination, alloying, fabricating, end-use, disposal, etc.).
- D. Upon certification by the cognizant DOE Program Office/Security Authority that declassification and decontamination of the Nickel has been accomplished per 41 CFR 109-43.307-51, 109-45.309-52 and 109-45.5005-1, the Seller shall sell the Nickel quantities to the Buyer and Title Transfer for each Sub-Lot will occur at this time. The Buyer shall maintain the Nickel in accordance with DOE safeguards and security requirements, the approved Security Plan, and DOE property management requirements until title is officially transferred.
- E. The Title Transfer and payment schedule shall be as follows (the Buyer fills in Table 3 as part of Exhibit 6 at time of proposal).
 - 1. The payment date for each Sub-Lot shall not be more than five (5) business days after Title Transfer date for each Sub-Lot.

SALES AGREEMENT DE-SC30-10CC40098

2. The Buyer shall notify the Contracting Officer by e-mail when the wire transfer has been sent.
 3. The price of the Nickel for each transfer will be calculated based on the unit price per pound identified in the Schedule – Pricing Information – Nickel, multiplied by the actual weight of the Nickel.
 4. The majority of the shredded nickel scrap at ETPP is stored in 55-gallon drums weighing approximately 425 pounds each; the remainder is stored in metal 90-cubic foot containers weighing approximately 5,325 pounds each. The nickel scrap at the Paducah GDP is predominantly in the form of cylindrical ingots standing approximately 24-25 inches high, ranging from 16-19 inches in diameter and weighing approximately 2,000 pounds. A small amount of the nickel at the Paducah GDP was cast into ingots of various shapes. See Exhibit 1 for detailed description of the radiological properties and purity of the Paducah nickel ingots. Similar data does not exist for the nickel scrap at ETPP. **DOE does not in any way warrant, guarantee, or otherwise vouch for the accuracy of the properties of any of the Paducah GDP and ETPP Nickel inventory to be sold. The inventory will be sold “as is.” Additionally, the Buyer bears all responsibility, and cost, for treatment and disposal of all radioactive and hazardous byproduct and secondary wastes, contaminants and other secondary material as a result of disposition of the Nickel.**
 5. The weight of the Nickel shall be determined by the Buyer, based upon the quantity weight of Nickel shipped, using Buyer-owned, maintained and calibrated scales (see Article V.D.2.b). DOE shall provide oversight of the weighing, maintenance, and calibration, as documented in the Interface MOUs (Article VIII).
 6. Any goods or services to be provided by DOE or by a DOE on-site contractor shall be specified in the proposal and reflected in the Interface MOUs (Article VIII).
 7. The standard weight of the empty metal 90-cubic foot strong tight containers (i.e., the tare weight on the container identification plate) will be deducted from the Nickel quantity weight, to determine the actual payment amount due to Seller. The tare weight of a 55 gallon drum shall be assumed to be 48 pounds, and 48 pounds per 55 gallon drum shall be deducted from the Nickel quantity weight, to determine the actual payment amount due to Seller.
 8. If the total quantity of Nickel offered for sale (15,300 tons) varies by greater than 5%, the Buyer or the Seller may request a renegotiation of the sales price. Determination and approval of any change to the unit sales prices shall be made unilaterally by the CO.
- F. The actual payment amount to the Seller for each Sub-Lot will be established in writing at the time of weighing prior to Title Transfer (see Article V.D.2.b).

See Exhibit 6, Table 3, for the Schedule for Title Transfer and Payment.

ARTICLE VIII. AVAILABILITY OF FACILITIES AND UTILITIES/INTERFACES

- A. The Buyer shall define interfaces with the appropriate parties at Paducah and Oak Ridge in respective Interface MOUs, to be approved by DOE, prior to initial receipt. These MOUs will define essential services and interactions required by the Buyer so as not to impede progress on Buyer's receiving of the Nickel. The Buyer shall pay the full cost of any goods or services provided by DOE or an on-site contractor. Requirements may be graded, as

SALES AGREEMENT DE-SC30-10CC40098

agreed to by the Buyer and DOE. The following shall be considered for inclusion in the Interface MOUs:

- Infrastructure/utilities and basic services (power, water, air, personnel cafeteria/rest rooms, etc.);
- Emergency Response;
- Medical services;
- Safeguards and Security Interfaces to ensure DOE requirements are properly implemented from initial receipt through Title Transfer;
- Applicability of DOE directives for activities performed under DOE's authority, if any (e.g., Health and Safety Plan, Quality Assurance Project Plan, Waste Management Plan, etc.);
- Execution of Title Transfer and DOE Property Management Regulations (41 CFR Part 109 (109-43.307-51, 109-42.1102-51)) subsequent to declassification and decontamination;
- Agreements for Government-furnished property that will be provided to the Buyer, in accordance with all Federal, DOE and site property regulations, directives and policies;
- Nickel loading operations, including, but not limited to: abiding by all site policies and protocols, storage of Buyer-owned equipment, maintenance, training, retrieval of material, loading, on-site transportation, if applicable, employee, public and environmental safety, incidents and/or accidents, etc;
- Roles, responsibilities and methods for determining the weight of each Sub-Lot, including DOE oversight responsibilities, and maintenance and calibration of the Buyer scales (see Article V.D.2.b);
- Interfaces with existing site contractors and other site occupants (e.g., the Buyer is responsible for ensuring personnel have appropriate access to work and support areas);
- Process for obtaining and maintaining badging and security clearances (e.g., the Buyer is responsible for achieving appropriate access to work and support areas);
- Methods for personnel radiation monitoring and reporting (e.g., the Buyer is responsible for ensuring personnel have appropriate dosimetry);
- Methods for environmental monitoring, reporting and surveillance (e.g., the Buyer is responsible for ensuring that site requirements are met);
- Interfaces required to support transportation to licensed/permitted facilities;
- Liability under the Price-Anderson Act, and other liability, and insurance considerations.

B. In the case where activities are performed on-site, the Buyer may desire the use of Government-owned facilities and equipment. The Buyer shall include the details of these desired items in the above-referenced Interface MOUs. Until the approval of the MOUs, there will be no DOE commitment to the Buyer to furnish the facilities and equipment. In the event that DOE is unable, for any reason, to provide the Buyer with its identified items, the Buyer remains fully and solely responsible for executing the Sales Agreement in a timely manner and without any further recourse against DOE.

ARTICLE IX. DISPUTES

- A. This Agreement is subject to the Contract Disputes Act (CDA) of 1978, as amended (41 USC 601-613).
- B. Except as provided in the CDA, all disputes arising under or relating to this Sales Agreement shall be resolved under this clause.
- C. "Claim" as used in this article, means a written demand or written assertion by one of the parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of Agreement terms, or other relief arising under or relating to this Agreement. However, a written demand or written assertion by the Buyer seeking payment of money exceeding \$100,000 is not a claim under the CDA until certified. A voucher, invoice, or other routine request for payment is not a claim under the CDA. The submission may be converted to a claim under the CDA, by complying with the submission and certification requirements of this article, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- D. (1) A claim by the Buyer shall be made in writing and, unless otherwise stated in this Agreement, submitted within six (6) years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Seller against the Buyer shall be subject to a written decision by the Contracting Officer.
- (2) (i) The Buyer shall provide the certification specified in paragraph (D)(2)(iii) of this article when submitting any claim exceeding \$100,000.
- (ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.
- (iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Buyer believes the Seller is liable; and that I am duly authorized to certify the claim on behalf of the Buyer."
- (3) The certification may be executed by any person duly authorized to bind the Buyer with respect to the claim.
- E. For claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Buyer, render a decision within sixty (60) calendar days of the request. For certified claims over \$100,000, the Contracting Officer must, within sixty (60) calendar days, decide the claim or notify the Buyer of the date by which the decision will be made.
- F. The Contracting Officer's decision shall be final unless the Buyer appeals as provided in the CDA.

SALES AGREEMENT DE-SC30-10CC40098

- G. If the claim by the Buyer is submitted to the Contracting Officer or a claim by the Seller is presented to the Buyer, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Buyer refuses an offer for ADR, the Buyer shall inform the Contracting Officer, in writing, of the Buyer's specific reasons for rejecting the offer.
- H. The Seller shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (certified if required), or (2) the date payment otherwise would be due, if the date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the CDA, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each six (6)-month period as fixed by the Treasury Secretary during the pendency of the claim.
- I. The Buyer shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

ARTICLE X. LICENSES

- A. At time of proposal the Buyer shall have all necessary facility authorization, permits, licenses (e.g., NRC [or Agreement State] license to possess the nickel referenced in this Sales Agreement), or approvals, comply with all applicable laws, regulations, and ordinances of the United States and of any State, territory, or political subdivision, and comply with all applicable treaties, conventions and other agreements to which the United States is a party as required for material acceptance and as required by this Sales Agreement. If authorization will not be approved and effective on the day of proposal submittal, DOE will evaluate the Buyer's **detailed, credible** plan to obtain such authorizations, permits and licenses, in accordance with the Pass/Fail criteria outlined in Attachment 1, Proposal Preparation Instructions (Section 3.a) and Attachment 3, Competitive Award Decision Factors (Section 3.A).
- B. **All steps of Nickel disposition, from initial receipt to disposal in a regulated facility, shall be performed within the United States. International transfer of any Nickel is prohibited and shall be considered a breach of the conditions of this Sales Agreement.** Therefore, Export Restriction requirements are not applicable.

ARTICLE XI. CONTROL REQUIREMENTS FOR DISPOSITION OF THE NICKEL

Control requirements for disposition of the Nickel are as follows:

- A. Regulatory Control – The Buyer shall operate any required facilities in accordance with all applicable requirements imposed by NRC, Agreement State, or DOE (this may include transfer of Title via an interagency agreement, e.g., between the DOE and the Department of Defense (DoD)). The Nickel shall at no time be transferred outside the United States, nor shall any Nickel disposition activities be accomplished internationally.

SALES AGREEMENT DE-SC30-10CC40098

B. Administrative Control – The Buyer shall provide perpetual inventory and chain-of-custody control for the Buyer and any subsequent recipients(s). This will be accomplished by requiring the Buyer to establish an inventory control system, with an associated Inventory Control Plan for tracking and reporting the location of the Nickel, from initial receipt until the end-product is disposed of in a regulated facility. These Administrative Controls are complementary to the NRC (or Agreement State) license requirements. Compliance with additional applicable DOE directives (see Exhibit 2) would be needed if the Buyer's facility is not subject to regulatory control by NRC or an Agreement State. (In the DOE case, the material may be controlled using DOE directives applicable to radiological material, even though the Nickel is below the IAEA clearance levels. End-use may involve DoD, where the title of the material may be transferred to DoD via an interagency agreement). The Inventory Control Plan and system must include the following Administrative Control Mechanisms:

- 1) Activity and Inventory Reporting and Tracking – The Buyer shall have procedures, approved by the DOE EM Consolidated Business Center (EMCBC) Administering Contracting Officer, in place to maintain control of the Nickel. The Buyer (and any subsequent recipient(s) of the Nickel in any of the five Steps as set forth in Article XII) must complete DOE Form 580.1 (End-Use Certificate, attached as Exhibit 4), in accordance with 41 CFR Chapter 109, to document each receipt and possession of Nickel. The End-Use Certificate must be submitted to the EMCBC for verification. This form must be completed notwithstanding that international transfer of the Nickel is expressly prohibited as set forth in Article X, and completion of the form does not authorize the Buyer (or any subsequent recipient(s) of the Nickel in any of the five Steps as set forth in Article XII), either implicitly or explicitly, to use, disposition, transfer or sell the Nickel in any manner other than that which is provided for in this agreement.
- 2) Activity and Inventory Verification – A risk-based verification and oversight process will be established by EMCBC to verify that the administrative controls are implemented to demonstrate that the Nickel is properly controlled. The Buyer and any subsequent recipient(s) shall cooperate with EMCBC auditors in the verification of the quantity and condition of the material at any stage (e.g., fabrication, manufacturing, deployment and operation of equipment, and/or disposal), as well as the review of associated records. Audits will be conducted periodically (e.g., annually) by EMCBC to ensure the Inventory Control Plan is properly executed, and documentation is accurate and current.
- 3) Performance Enforcement – These Administrative Control requirements shall be imposed on any and all contracts, subcontracts or agreements with subsequent recipient(s). The Buyer shall demonstrate financial surety (see Article XXV and Exhibit 5) for each subsequent recipient(s) before transfer of material to ensure this Agreement will be performed as documented (e.g., ensure proper disposal of any Nickel that becomes an orphan waste, should there be a failure in the proper implementation of the Sales Agreement requirements). In no instance shall any Nickel be transferred outside the United States. In accordance with Article XV, the Seller reserves the right to terminate this Sales Agreement, at no cost to the

SALES AGREEMENT DE-SC30-10CC40098

Seller, in the event that the Buyer fails to perform any Sales Agreement obligations. The Buyer shall prepare and document corrective actions to the CO within five (5) business days of the date of the written notice of such failure to perform, unless such failure arises out of causes beyond the control of and without the fault or negligence of the Buyer, its contractors or agents.

ARTICLE XII. PROPERTY CONTROL REQUIREMENTS

A summary description of the five steps and associated activities for the processing of the Nickel for radiologically-controlled use, and for management and control of associated wastes, are as follows. These activities shall be performed in accordance with all applicable laws, regulations and DOE policy and directives, including, but not limited to those, provided in Exhibit 2. All waste disposal costs will be borne by the Buyer.

NOTE: Steps 1 through 5 shall be performed only in the United States.

Step 1: Declassification

- Construct a facility or convert an existing facility which is either NRC (or Agreement State) licensed or under DOE's extended AEA authority to declassify the Nickel for subsequent processing;
- Submit to ORO a Security Plan in accordance with DOE directives and safeguards and security requirements for inspection of the material (to ensure that properly cleared individuals have access) for transport of the material, and storage of the material prior to its conversion into an "unclassified" configuration;
- Remove from storage, handle, package, and load the Nickel at the Paducah GDP and ETPP;
- Receive ORO Security Officer certification of the classified Nickel for shipment, after it is loaded on the Buyer's conveyance, in accordance with requirements outlined in Article V;
- Transport the Nickel to the regulated facility for declassification (on-site or off-site);
- Process the Nickel in a regulated facility to declassify in accordance with DOE orders, and the approved Security Plan and procedures, store, and prepare the material for decontamination;
- Provide regulated control of process effluents, emissions, and radioactive and mixed wastes that the process could generate;
- Transport and dispose of radioactive and mixed wastes in regulated disposal facilities;
- Transport and dispose of sanitary, industrial, and mixed wastes at appropriate disposal facilities in accordance with Federal, State, and local requirements;
- Handle, package, and load the declassified Nickel for shipment to a regulated decontamination facility if applicable (e.g., decontamination could occur at same facility); and
- Decontaminate, decommission and/or dispose of material, equipment, facilities, tools and infrastructure consistent with the applicable rules and regulations after completion of the processes.

Upon completion, declassification will be certified by the cognizant DOE Program Office/Security Authority, in accordance with DOE directives, safeguards and security

SALES AGREEMENT DE-SC30-10CC40098

requirements, DOE policy, and the approved Security Plan (see Article XVIII).

Step 2: Decontamination (Purification and Alloying¹)

- Construct a regulated purification facility, or convert an existing regulated facility for this purpose which is either NRC (or Agreement State) licensed or under DOE's extended AEA authority to decontaminate the Nickel for alloying;
- Transport the Nickel to the regulated purification facility; process the Nickel material in the purification facility to produce, and store a decontaminated material suitable for alloying (the alloying step could occur at the time of decontamination or in Step 3);
- Provide regulated control of process effluents, emissions, and radioactive and mixed wastes that the process generates;
- Transport and dispose of radioactive and mixed wastes in regulated disposal facilities;
- Transport and dispose of sanitary, industrial, and mixed wastes at appropriate disposal facilities in accordance with Federal, State, and local requirements;
- Handle, package, and load Nickel with residual radioactivity that meets IAEA clearance levels, for shipment to a regulated alloying facility (e.g., alloying could occur at some facility); NOTE: After Step 2, the residual radioactivity on the Nickel shall meet IAEA clearance levels, e.g., Technetium-99 less than 27 pCi per gram or 0.00000000027 Ci/g;
- The Buyer shall make the decontaminated product available for sampling by DOE or its representative for a reasonable period of time between Steps 2 and 3. DOE (at its own cost and expense) may implement an independent verification/confirmation program of the radiological content of the Nickel after the Nickel disposition Step 2 and before Step 3. Analyses performed by the Buyer along with the results of DOE's independent verification program will constitute a basis for DOE's certification of decontamination of the product; and
- Decontaminate, decommission and/or dispose of material, equipment, facilities, tools and infrastructure consistent with the applicable rules and regulations after completion of the processes.

Decontamination to the IAEA clearance level will be certified by the cognizant DOE Program Office (see Article XII, Step 2 for an independent verification/confirmation program). Title to the Nickel will not be transferred to the Buyer until it has been verified as declassified by DOE per DOE safeguards and security requirements and decontaminated to the IAEA clearance level.

Step 3: Alloying², Fabricating and Equipment Manufacturing

- Construct a regulated alloying, fabricating, and equipment manufacturing facility, or convert existing regulated facilities for nickel processing;
- Transport the Nickel that meets the IAEA clearance levels to a regulated alloying, fabricating, and equipment manufacturing facility or facilities;
- Alloy (as required), fabricate, manufacture, and store equipment in the regulated radiological facility;
- Provide regulated control of process effluents, emissions, and radioactive and mixed wastes that the process generates;

¹ Alloying can occur in either Step 2 or Step 3.

² Alloying can occur in either Step 2 or Step 3.

SALES AGREEMENT DE-SC30-10CC40098

- Transport and dispose of radioactive and mixed wastes in regulated disposal facilities;
- Transport and dispose of sanitary, industrial, and mixed wastes at appropriate disposal facilities in accordance with Federal, State, local, and/or international (IAEA) requirements;
- Transport the manufactured equipment to regulated radiological facilities; and
- Decontaminate, decommission and/or dispose of material, equipment, facilities, tools and infrastructure consistent with the applicable rules and regulations after completion of the processes.

Step 4: End-Use of Manufactured Products in Radiologically-Controlled Applications

- End-use of the manufactured products must be controlled under DOE, NRC or an Agreement State regulation, or transferred via an interagency agreement between the DoD and DOE.
- Rebuilding of end-use components is allowed where there is continuity of regulation and purpose with no change in end-use.
- Changes to end-use are prohibited, and are considered a breach of the Sales Agreement in accordance with Article XV.

Step 5: Disposal of Manufactured Products

- After the end of radiologically-controlled use, transport the equipment as waste to DOE-controlled, NRC or Agreement State-licensed disposal facilities.
- Closeout DOE Form 580.1, End-Use Certificate.

ARTICLE XIII. EXCUSABLE DELAYS

A. The Buyer shall not be in default because of any failure to perform this Sales Agreement under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Buyer. Examples of these causes are:

1. Acts of God or of the public enemy;
2. Acts of the Government in either its sovereign or contractual capacity;
3. Fires;
4. Floods;
5. Epidemics;
6. Quarantine restrictions;
7. Strikes;
8. Freight embargoes;
9. Unusually severe weather; or
10. Intervening illegality.

In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Buyer.

B. If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Buyer and subcontractor, and without the fault or negligence of either, the Buyer shall not be deemed to be in default, unless --

SALES AGREEMENT DE-SC30-10CC40098

1. The subcontracted services were obtainable from other sources;
 2. The Contracting Officer ordered the Buyer in writing to purchase these services from the other source; and
 3. The Buyer failed to comply reasonably with this order.
- C. Upon request of the Buyer, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the receipt schedule shall be revised, subject to the rights of the Government under the termination clause of this contract.

ARTICLE XIV. MATERIAL FOR RESTRICTED APPLICATIONS

The Buyer represents to the Seller that all Nickel transferred hereunder will be used in accordance with all applicable laws and regulations; and with the special process, use, and disposal restrictions of this Sales Agreement.

ARTICLE XV. TERMINATION - SUSPENSION

- A. In addition to any other rights the Seller may have, the Seller reserves the right, at no cost to the Seller, to terminate or suspend this Sales Agreement in whole or in part, by written notice to the Buyer, in the event (i) the Buyer's right to possess the Nickel expires or is suspended or terminated by any authority having power to take such action; (ii) the Buyer fails to perform its obligations hereunder, and fails to provide documented corrective action to the CO within five (5) business days of the date of the written notice of such failure to perform as provided above, unless such failure arises out of causes beyond the control of and without the fault or negligence of the Buyer, its contractors or agents; or (iii) bankruptcy or insolvency proceedings are commenced by or against the Buyer, or if receivers are appointed to take possession of the business of the Buyer.
- B. If payment is not received from the Buyer within the timeframe documented in Article VII, or a different date as agreed to in writing by the Seller, the Seller has the unilateral right to suspend or terminate the Sales Agreement at no cost to the Seller.
- C. If financial surety and/or Performance Bond is not established and maintained (see Article XXV) the Seller has the unilateral right to suspend or terminate the Sales Agreement at no cost to the Seller.
- D. If the Buyer cannot perform within the dates provided in Table 3 of Exhibit 6 and the schedule outlined in Exhibit 3, the Seller may exercise its right to award to another prospective buyer that submitted a response to this Request for Proposal. In this case, the Sales Agreement will be terminated at no cost to the Seller, notwithstanding any other provisions of the Sales Agreement.
- E. If the Buyer has not met the Pass/Fail criteria (Attachment 3, Section 3.A) prior to initial receipt of the Nickel, or a different date as agreed upon in writing by the Seller, the Seller

SALES AGREEMENT DE-SC30-10CC40098

has the unilateral right to terminate the Sales Agreement at no cost to the Seller.

ARTICLE XVI. TAXES

The Buyer shall be responsible for any and all taxes relating to this transaction, including, but not limited to, any and all sales and use taxes that may be owed to the Commonwealth of Kentucky or State of Tennessee, or any other state.

ARTICLE XVII. APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with the laws and regulations of the United States of America and the applicable state laws and regulations where the Nickel is located at the time of sale, either the laws of the Commonwealth of Kentucky or the State of Tennessee, or any other state.

ARTICLE XVIII. SECURITY REQUIREMENTS

- A. The Oak Ridge Office (ORO), Oak Ridge, Tennessee is the Cognizant Security Authority (CSA) for ETTP and the Paducah GDP. The ETTP and Paducah GDP sites are split into two areas of interest: Leased space (which falls under NRC or Agreement State regulations) and non-leased space (which falls under DOE requirements). Note: The possession, transportation, storage, processing, and disposition of the classified Nickel will be subject to DOE requirements for safeguards and security as described in Title 10 of the Code of Federal Regulations and respective DOE orders and directives.
- B. The Nickel at the Paducah GDP and ETTP is under the control of DOE (non-leased space), and administrative security procedures fall under the purview of local DOE security contractors (e.g., Swift and Staley at the Paducah GDP site, Wackenhut at ETTP). Physical security (armed guards) at Paducah GDP is provided by USEC. Physical security (armed guards) at ETTP is provided by an on-site security contractor (Wackenhut).
- C. A Security Plan, covering the ETTP and Paducah GDP sites shall be submitted and approved by ORO no later than 45 business days after award. The Security Plan shall implement DOE security policy and requirements, including:
 - 1. The Buyer must first get approval for access to the Nickel by contacting ORO, as the CSA, and follow their instructions based on an analysis of the level of classification of the Nickel. The Nickel is classified as Confidential-Restricted Data. The Security Plan must address at a minimum the:
 - a. Initial receipt, transportation, storage, declassification, processing, and disposition activities - utilizing detailed narrative and flow sheets;
 - b. Engineering and administrative controls implemented to safeguard and contain the classified information and materials including during routine handling, storage, transfer into declassification process, transportation, and postulated upset conditions;

SALES AGREEMENT DE-SC30-10CC40098

- c. Procedures that will be used to ensure that no classified information or residual material remains in any facility, equipment, or process after processing is completed;
- d. Comprehensive quality assurance plan addressing security matters of concern;
- e. Disposition of classified waste;
- f. Plans for producing any classified communications in a secure environment and plans for properly marking any classified documents.

The processing facilities will be subject to inspections and reviews by DOE security personnel during processing and after facility clearance.

- 2. Identification of, and coordination with, all organizations impacted by security requirements, necessary to complete the disposition of the Nickel (DOE, on-site contractors, USEC, external parties, etc.);
- 3. At Paducah, the CSA and the DOE security contractor will coordinate with designated site security personnel prior to removal of the material by the Buyer.
- 4. The Buyer shall contact the following personnel to coordinate clearance and access to the specific site for pickup of the Nickel:

ORO

Mr. E. Pat Howard, Chief, Security Oversight and Support Branch,
ORO OS-201
P.O. Box 2001
Oak Ridge, TN 37831
865-241-4501
HowardPE@oro.doe.gov

ETTP

* POC

Paducah

Mr. David Bowman
Swift & Staley Mechanical Contractors, Inc.
David.Bowman@swiftstaley.com

PPPO

* POC

ARTICLE XIX. NOTICES

A. All notices or other communications required or which may be given hereunder shall be in writing, addressed, and forwarded as follows:

If to Seller: TBD
Contracting Officer
Department of Energy
Environmental Management Consolidated Business Center (EMCBC)
250 E. Fifth Street, Suite 500, Cincinnati, Ohio 45202

If to Buyer: To Be Determined Upon Award of this Agreement (in accordance with
Page 1 of the Negotiated Sales Agreement)

B. Any notice or communication hereunder shall be deemed to have been properly transmitted when sent by mail or facsimile, and shall be deemed to have been given on the date of receipt. Receipt shall be documented by Delivery Confirmation receipt if sent by mail or by facsimile record/report if by facsimile.

C. At any time, either party may change the person or address to which its notices shall be sent, by five (5) calendar days written notice to the other party.

ARTICLE XX. ASSIGNMENT

This Agreement is subject to the provisions of 41 USC 15 which generally precludes assignment of such Agreement.

ARTICLE XXI. WAIVER

No waiver, alteration, amendment, or modification of this Sales Agreement or any covenant, condition, or limitation herein contained is valid unless in writing and duly executed by each of the parties hereto. Furthermore, no evidence of any waiver, alteration, amendment, or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this Sales Agreement, or the rights or obligations of any party hereunder, unless such waiver, alteration, amendment, or modification is in writing, and duly executed by the parties. Further, the provisions of this paragraph may not be waived except as herein set forth. The Contracting Officer is the only individual authorized to waive, alter, amend, or modify the Sales Agreement on the Government's behalf.

ARTICLE XXII. OFFICIALS NOT TO BENEFIT

A. By submission of its offer, the Buyer represents that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Buyer, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract [meaning this Sales Agreement], the entering into of any extension, continuation, renewal, amendment, or modification of any Federal

SALES AGREEMENT DE-SC30-10CC40098

contract.

- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract [meaning this Sales Agreement], the Buyer shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

ARTICLE XXIII. COVENANT AGAINST CONTINGENT FEES

- A. The Buyer warrants that no person or agency has been employed or retained to solicit or obtain this Sales Agreement upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Seller shall have the right to annul this Sales Agreement without liability or, in its discretion, to add to the sales price or consideration, or otherwise recover, the full amount of the contingent fee.
- B. "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a purchaser for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain DOE Sales Agreement nor holds itself out as being able to obtain any DOE Sales Agreements(s) through improper influence.
- C. "Bona fide employee," as used in this clause, means a person, employed by a purchaser and subject to the purchaser's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain DOE Sales Agreements nor holds out as being able to obtain any DOE Sales Agreement(s) through improper influence.
- D. "Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a DOE Sales Agreement.
- E. "Improper Influence," as used in this clause means any influence that induces or tends to induce a DOE employee or officer to give consideration or to act regarding a DOE Sales Agreement on any basis other than the merits of the matter.

ARTICLE XXIV. INDEMNIFICATION/HOLD HARMLESS CLAUSE

This Agreement is made with the understanding and express condition that the United States of America and DOE and its agents shall be free from all liabilities and claims for damages and/or suits. Moreover, the Buyer agrees to indemnify and hold harmless the Seller, its present and future officers or officials, employees, agents, and representatives, from and against any and all liabilities, penalties, fines, forfeitures, demands, claims, causes of action, suits and costs and expenses (including the costs of defense and/or settlement, including, but not limited to, actual attorney's fees), whether vested or contingent, liquidated or unliquidated, which any or all of them may hereafter at any time suffer, incur, be subject to be responsible for, or pay as a

SALES AGREEMENT DE-SC30-10CC40098

result of any and all bodily injuries to persons (including death), damage to any property, contamination or other adverse effects on the environment, or any violation or alleged violation of any or all applicable statutes, ordinances, orders, laws, rules, or regulations of any governmental entity or agency, caused by, resulting from, or arising out of:

- Any negligent or willful act or omissions by the Buyer, its employees, agents, officers, directors, or subcontractors in connection with this Agreement.
- The Buyer's use, distribution, sales, or alteration of the Nickel identified in this Agreement or any components or residue thereof.

ARTICLE XXV. FINANCIAL SURETY

The Buyer shall, by the due date in Exhibit 3, provide proof of financial surety for: (1) the clean up, closure, and post-closure care of the Buyer's nickel disposition storage and processing facilities, (2) the clean up of any accidental releases of radioactive and/or hazardous constituents during the active life of the Buyer's nickel disposition facilities; (3) compensation of any third parties for any resulting bodily injury or property damage, and (4) the packaging, transportation, and disposal of nickel for any phase in the Nickel disposition process, e.g., decontamination, declassification, alloying, fabrication, and end-use. This may be accomplished by financial assurance as part of licensing and permitting requirements and processes, and/or the purchase of a performance bond (Exhibit 5) for those activities not covered by existing financial assurance. The amount of surety shall cover all disposition activities, and shall be estimated, with justifications by the Buyer, as part of its proposal.

ARTICLE XXVI. AGREEMENT EXECUTION DOCUMENTS

The Agreement Execution Documents at Attachment 2 are hereby incorporated by reference, with the exception of the DOE Form 580.1, "U.S. Department of Energy End-Use Certificate" which will be included as Exhibit 4 to the Sales Agreement.

ARTICLE XXVII. COMMUNITY COMMITMENT

DOE is conducting critical missions at the ETTP in Oak Ridge, Tennessee, and the Paducah GDP in Paducah, Kentucky. It is the policy of DOE to be a constructive partner in the geographic region in which DOE conducts its business. The Buyer shall take meaningful actions to implement DOE's community commitment.

DOE will not prescribe which community commitment activities the Buyer may engage in but identifies the example activities listed in A, B and C below as worthwhile endeavors for its consideration. The list is not intended to preclude other constructive community activities.

The Buyer shall include a plan for the community commitment activities in the proposal. This plan will become part of the final Sales Agreement (Exhibit 7).

A. Regional Educational Outreach Programs

SALES AGREEMENT DE-SC30-10CC40098

The objectives of these programs include teacher enhancement, student support, curriculum enhancement, educational technology, public understanding, and providing the services of the sites' employees to schools, colleges, and universities.

The Regional Educational Outreach Programs could involve providing facility employees an opportunity to improve their employment skills and opportunities by an educational assistance allowance, provision for outside training programs either during or outside regular work hours, or executive training programs for non-executive employees. This could also involve participating in activities that foster relationships with regional educational institutions and other institutions of higher learning or encouraging students to pursue science, engineering, and technology careers.

B. Regional Purchasing Programs

The Buyer could conduct business alliances with regional vendors. These alliances may also serve to encourage the formation of regional trade associations which will better enable regional businesses to satisfy the sites' needs.

The Buyer could coordinate and cooperate with the Chambers of Commerce, Small Business Development Centers, and like organizations, and make prospective regional vendors aware of any assistance that may be available from these entities.

DOE encourages the use of regional vendors in fulfilling the requirements.

The Buyer shall encourage its subcontractors, at all tiers, to participate in these activities.

C. Community Support

The Buyer may directly sponsor specific local community activities or sponsor individual employees available to work with a specific local community activity. The Buyer may provide support and assistance to community service organizations. The Buyer may support strategic partnerships with professional and scientific organizations to enhance recruitment into all levels of its organizations at the sites.

The Buyer may support other community involvement activities as it deems appropriate.

ARTICLE XXVIII. ENTIRE AGREEMENT

This Sales Agreement contains the entire agreement between the parties and supersedes all other prior negotiations, undertakings, notes, memoranda, and agreements, whether written or oral, concerning the subject matter.

SALES AGREEMENT DE-SC30-10CC40098

LIST OF EXHIBITS

Exhibit 1 – RADIOLOGICAL PROPERTIES AND PURITY OF THE PADUCAH NICKEL INGOTS

Exhibit 2 – LIST OF APPLICABLE LAWS, REGULATIONS, AND DOE DIRECTIVES

Exhibit 3 – BUYER DELIVERABLES

Exhibit 4 – DOE FORM 580.1, “U.S. DEPARTMENT OF ENERGY END-USE CERTIFICATE”
(signed copy to be included at award)

Exhibit 5 – PERFORMANCE BOND

Exhibit 6 – PRICE, QUANTITY AND PAYMENT TABLES

Exhibit 7 – COMMUNITY COMMITMENT PLAN (to be included at award)

Exhibit 1- RADIOLOGICAL PROPERTIES AND PURITY OF THE PADUCAH NICKEL INGOTS

Note: DOE does not in any way warrant, guarantee, or otherwise vouch for the accuracy of the properties of the inventory to be sold. The inventory would be transferred “as is.”

During the recasting process between 1978 and 1984, samples were taken from 30 nickel ingots. Summary of the sample analyses are as follows:

Nuclide	Detected In (Number of Samples)	Sample Result (pCi/g)	
		Average	Maximum
⁹⁹ Tc	30	14,459	71,621
Total U	30	1.32	7.57
²³⁷ Np	5	0.568	0.838
²³⁹ Pu	1	N/A	0.297

Np = Neptunium Tc = Technetium Pu = Plutonium U = Uranium

Note: The average contaminant level of ⁹⁹Tc, the primary contaminant present, is 0.85 ppm (14,459 pCi/g) and the standard deviation was 0.83. The maximum level of ⁹⁹Tc detected is 4.21 ppm (71,621 pCi/g); however, 95 percent of the samples were < 2.13 ppm (36,243 pCi/g). The original analytical results from these 30 nickel ingots are presented at the end of Exhibit 1.

Approximately 72 additional samples were taken in 1999/2000 with the following results:

Nuclide	Sample Result (pCi/g)			Standard Deviation
	Minimum	Maximum	Average	
Alpha	4.60	4.60	4.60	N/A
Beta	3,970	11,400	6,980	2,650
²³⁷ Np	0.163	0.470	0.268	0.126
²³⁹ Pu	6.06	7.53	6.73	0.743
⁹⁹ Tc	8.77	23,500	13,800	5,990
²³⁰ Th	1.13	1.13	1.13	N/A
²³² Th	0.0000264	0.0118	0.000500	0.00196
²³⁵ U	0.000210	0.0184	0.00560	0.00770
²³⁸ U	0.00213	0.912	0.120	0.197

Np = Neptunium Th = Thorium Pu = Plutonium U = Uranium Tc = Technetium
N/A = Not applicable; minimum, maximum, and average based on 1 sample result.

SALES AGREEMENT DE-SC30-10CC40098

In May 2005, radiological sampling was performed on a single nickel ingot from Paducah. Four samples were taken with the following results:

Nuclide	Detected In (Number of Samples)	Sample Result (pCi/g)	
		Average	Maximum
Total U	3	0.27	0.38
Total Th	0	0	0

Nickel purity was also analyzed in May 2005 on the four samples taken from the single nickel ingot originating from Paducah:

Element	Sample E1 (%)	Sample E2 (%)	Sample E3 (%)	Sample E4 (%)	Nickel Specification (%)
Nickel	99.97	99.96	99.96	99.96	99.6
Phosphorus	<0.001	<0.001	<0.001	<0.001	0.001
Sulfur	0.0014	0.0015	0.0018	0.0014	0.001
Carbon	0.0014	0.0015	0.001	0.0016	0.01
Copper	<0.002	<0.002	<0.002	<0.002	0.01
Zinc	<0.001	<0.001	<0.001	<0.001	0.0015
Cadmium	<0.0003	<0.0003	<0.0003	<0.0003	0.003
Bismuth	<0.0003	<0.0003	<0.0003	<0.0003	0.0003
Iron	0.017	0.019	0.02	0.02	0.01
Tin	<0.0003	<0.0003	<0.0003	<0.0003	0.003
Lead	<0.001	<0.001	<0.001	<0.001	0.001
Magnesium	<0.001	<0.001	<0.001	<0.001	0.001
Antimony	<0.001	<0.001	<0.001	<0.001	0.003
Silicon	0.0017	0.0016	0.0016	0.002	0.002
Arsenic	<0.001	<0.001	<0.001	<0.001	0.008

SALES AGREEMENT DE-SC30-10CC40098

Representative radiological surveys on the surface of seven ingots, using alpha and beta/gamma monitoring instruments, were taken in June 2006, with the following results:

Nuclide	No. of Samples	Sample Result			Standard Deviation
		Minimum	Maximum	Average	
Transferable Alpha	50	0 dpm/100 cm ²	16 dpm/100 cm ²	0.700 dpm/100 cm ²	2.605
Transferable Beta/Gamma	50	0 dpm/100 cm ²	14 dpm/100 cm ²	2.485 dpm/100 cm ²	3.602
Total Beta/Gamma	9	35,200 dpm/100 cm ²	352,000 dpm/100 cm ²	125,156 dpm/100 cm ²	94,960
Fixed Readings	59	600 cpm	2,000 cpm		

dpm = disintegrations per minute cpm = counts per minute

Analytical results from the buttons of the 30 nickel ingots between 1978 and 1984 are as follows;

(Reference: DOE, 1995, Environmental Assessment – Proposed Sale of Radioactively Contaminated Nickel Ingots Located at the Paducah Gaseous Diffusion Plant, Paducah, Kentucky, DOE/EA-0994, Oak Ridge Operations Office, Oak Ridge, Tennessee.)

Source By Site*	Ingot Button No.	²³⁷ Np (ppb)	²³⁹ Pu (ppb)	⁹⁹ Tc (ppm)	²³⁵ U (ppm)	²³⁸ U (ppm)	Total U (ppm)	Assay ²³⁵ U (%)	²³⁵ U (g)	²³⁸ U (g)	Total U (g)
PGDP	110-111	-	-	0.69	0.014	1.186	1.20	1.15	0.017840	1.533446	1.551286
PGDP	127	-	-	0.56	0.020	1.880	1.90	1.05	0.025790	2.430413	2.456203
PGDP	131	-	-	0.75	0.013	1.387	1.40	0.95	0.017193	1.792640	1.809834
PGDP	203	-	-	0.73	0.018	1.282	1.30	1.36	0.022856	1.657704	1.680560
PGDP	208-209	-	-	0.82	0.018	1.482	1.50	1.20	0.023269	1.915838	1.939108
PGDP	212-213	-	-	0.72	0.007	0.593	0.60	1.22	0.009463	0.766180	0.775643
PGDP	254	-	-	0.79	0.017	1.283	1.30	1.27	0.021343	1.659217	1.680560
PGDP	286	-	-	0.91	0.029	2.271	2.30	1.28	0.038058	2.935240	2.973298
PGDP	292	-	-	0.96	0.003	0.297	0.30	1.13	0.004382	0.383439	0.387822
PGDP	295	-	-	1.07	0.007	0.593	0.60	1.15	0.008920	0.766723	0.775643
OR-GDP	750	-	-	0.53	0.017	2.783	2.80	0.61	0.022080	3.597587	3.619667
OR-GDP	850	0.60	-	0.69	0.076	12.524	12.60	0.60	0.097731	16.190772	16.288503
OR-GDP	1234	0.80	-	0.41	0.016	2.384	2.40	0.67	0.020787	3.081785	3.102572
OR-GDP	1424	-	-	1.30	0.021	3.179	3.20	0.67	0.027716	4.109046	4.136763
OR-GDP	1680	-	-	1.88	0.014	2.386	2.40	0.57	0.017685	3.084887	3.102572
OR-GDP	1889	0.60	-	1.05	0.006	0.894	0.90	0.68	0.007912	1.155553	1.163465
OR-GDP	2268	-	-	2.13	0.009	1.391	1.40	0.64	0.011583	1.798251	1.809834
OR-GDP	2503	1.20	-	2.00	0.011	1.589	1.60	0.67	0.013858	2.054523	2.068381
OR-GDP	2695	-	-	0.98	0.010	1.490	1.50	0.66	0.012798	1.926309	1.939108
OR-GDP	3128	0.90	-	4.21	0.028	3.272	3.30	0.86	0.036688	4.229349	4.266037
PORTS	886	-	-	0.22	0.007	0.693	0.70	1.06	0.009592	0.895325	0.904917
PORTS	1148	-	-	0.26	0.009	1.191	1.20	0.75	0.011635	1.539651	1.551286
PORTS	1711	-	-	0.19	0.005	0.595	0.60	0.84	0.006515	0.769128	0.775643
PORTS	1891	-	-	0.26	0.006	0.894	0.90	0.72	0.008377	1.155088	1.163465
PORTS	2144	-	-	0.24	0.002	0.198	0.20	1.01	0.002611	0.255936	0.258548
PORTS	2164	-	-	0.51	0.010	0.991	1.00	0.95	0.012281	1.280457	1.292738
PORTS	2574	-	-	0.19	0.010	1.090	1.10	0.90	0.012798	1.409214	1.422012
PORTS	2821	-	-	0.19	0.014	1.286	1.30	1.04	0.017478	1.663082	1.680560
PORTS	3025	-	-	0.16	0.002	0.198	0.20	1.12	0.002896	0.255652	0.258548
PORTS	3488	-	-	0.12	0.006	0.594	0.60	0.98	0.007601	0.768042	0.775643

SALES AGREEMENT DE-SC30-10CC40098

Average	0.14	-	0.85	0.01	1.729	1.743	0.93	0.02	2.24	2.25
Non-zero	0.82									
Maximum	1.20	-	4.21	0.08	12.524	12.600	1.36	0.10	16.19	16.29
Minimum	-	-	0.12	0.00	0.198	0.200	0.57	0.00	0.26	0.26

*PGDP – Paducah Gaseous Diffusion Plan

OR-GDP – Oak Ridge Gaseous Diffusion Plan

PORTS – Portsmouth Gaseous Diffusion Plan

Note: DOE does not in any way warrant, guarantee, or otherwise vouch for the accuracy of the properties of the inventory to be sold. The inventory would be transferred “as is.”

Exhibit 2 - LIST OF APPLICABLE LAWS, REGULATIONS, AND DOE DIRECTIVES

The following laws, regulations, DOE Directives and policies apply to the Sales Agreement (the latest revisions shall be used). The contractor shall follow the established exemption process to obtain relief from requirements of these regulations where applicable. This is not meant to be an all-inclusive list of requirements; additional requirements may apply, e.g., specified in the Interface MOUs (when the Buyer operates a facility under DOE's regulatory control.)

1. Waste Management Programmatic Environmental Impact Statement for Managing Treatment, Storage, and Disposal of Radioactive and Hazardous Waste (DOE/PEIS-0200-F, May 1997)
2. Sale of Radioactively Contaminated Scrap Nickel Ingots at the Paducah Gaseous Diffusion Plant, Paducah, KY (DOE/EA-0994, April 1996).
3. Personal Property Letter (PPL) 970-1 issued by the Deputy Assistant Secretary for Procurement and Assistance Management, in particular, Expedited Reutilization Procedures for the Transfers of Personal Property for Economic Development (p. 12) (June 28, 1995)
4. Personal Property Letter (PPL) 970-3 (Revision 1) issued by the Deputy Assistant Secretary for Procurement and Assistance Management (February 3, 1998)
5. DOE O 142.1, Classified Visits Involving Foreign Nationals
6. DOE O 142.2A, Voluntary Offer Safeguards Agreement and Additional Protocol with the International Atomic Energy Agency
7. DOE O 142.3 Chg 1, Unclassified Foreign Visits and Assignments
8. DOE O 151.1C, Comprehensive Emergency Management System
9. DOE O 200.1A, Information Management Plan
10. DOE O 205.1A, Department of Energy Cyber Security Management Program
11. DOE O 226.1A, Implementation of DOE Oversight Policy
12. DOE O 243.1, Records Management Program
13. DOE O 243.2, Vital Records
14. DOE O 414.1C, Quality Assurance, including the EM-QA-001 EM Quality Assurance Program (QAP)
15. DOE O 435.1, Radioactive Waste Management

SALES AGREEMENT DE-SC30-10CC40098

16. DOE O 440.1A, Worker Protection Management for DOE Federal and Contractor Employees
17. DOE G 441.1-C, Radiation Protection Program
18. DOE G 441.1.xx, (draft) Implementation Guide, Control and Release of Property with Residue Radioactive Material for Use with DOE 5400.5 (April 2002)
19. DOE O 450.1A, Environmental Protection Program
20. DOE O 460.1B, Packaging and Transportation Safety
21. DOE O 460.2A, Departmental Materials Transportation and Packaging Management
22. DOE O 470.2B, Independent Oversight and Performance Program (Oct. 31, 2002)
23. DOE O 470.4A, Safeguards and Security Program (May 25, 2007)
24. DOE O 470.4-6, Nuclear Material Control and Accountability
25. DOE O 471.1B, Identification and Protection of Unclassified Controlled Nuclear Information (Mar. 1, 2010)
26. DOE O 471.3, Identifying and Protecting Official Use Only Information (Apr. 9, 2003)
27. DOE G 471.3-1, Guide to Identifying Official Use Only Information (Apr. 9, 2003)
28. DOE O 475.1-1B, Manual for Identifying Classified Information
29. DOE O 475.2, Identifying Classified Information (Aug. 28, 2007)
30. DOE O 522.1, Pricing of Departmental Materials and Services
31. DOE O 580.1 Chg 1 (May 8, 2008), Department of Energy Personal Property Management Program, and DOE Guide 580.1-1 (December 7, 2005)
32. DOE O 5400.5, Radiation Protection of the Public and the Environment
33. DOE O 5660.1B, Management of Nuclear Materials
34. DOE P 470.1, Integrated Safeguards and Security Management (ISSM) Policy
35. DOE M 142.2-1, Manual for Implementation of the Voluntary Offer Safeguards Agreement and Additional Protocol with the International Atomic Energy Agency
36. DOE M 205.1-6, Medial Sanitization Manual

SALES AGREEMENT DE-SC30-10CC40098

37. DOE M 205.1-7, Security Controls for Unclassified Information Systems Manual
38. DOE M 435.1-1 Chg, Radioactive Waste Management Manual
39. DOE M 450.4-1, Integrated Safety Management System Manual
40. DOE M 470.4-1, Change 1, Safeguards and Security Program Planning and Management (Aug. 26, 2005)
41. DOE M 470.4-2A, Physical Protection (July 23, 2009)
42. DOE M 470.4-4A, Information Security Manual (Jan. 16, 2009)
43. DOE M 470.4-5, Personnel Security (restricted) (Aug. 26, 2005)
44. DOE M 470.4-6, Nuclear Material Control and Accountability
45. DOE M 471.3-1, Manual for Identifying & Protecting Official Use Only Information (Apr. 9, 2003)
46. DOE M 475.1-1B, Manual for Identifying Classified Information (Aug. 28, 2007)
47. DOE N 206.4, Personal Identity Verification Program
48. Fiscal Year 1994 National Defense Authorization Act, Section 3155 (Public Law 103-160)
49. NUREG-1757, NRC Office of Nuclear Material Safety and Safeguards (NMSS) Consolidated NMSS Decommissioning Guidance, Financial Assurance, Recordkeeping, and Timeliness (September 2003)
50. 10 CFR Part 820, Procedural Rules for DOE Nuclear Activities
51. 10 CFR Part 824, Procedural Rules for the Assessment of Civil Penalties for Classified Information Security Violations
52. 10 CFR Part 830, Nuclear Safety Management Subpart A, Quality Assurance
53. 10 CFR Part 851, Worker Safety and Health Program
54. 10 CFR Part 1021 – National Environmental Policy Act Implementing Procedures, Subpart B -- DOE Decision-making, §1021.216 Procurement, financial assistant, and joint ventures.
55. 15 CFR Part 744, Department of Commerce, Export Control Regulations
56. 41 CFR Part 101, Federal Property Management Regulations

SALES AGREEMENT DE-SC30-10CC40098

- 57. 41 CFR Part 101-42, Utilization and Disposal
- 58. 41 CFR Part 102, Federal Management Regulations
- 59. 41 CFR Part 109, Department of Energy Property Management Regulations, 109-1.100-51 Definition of High Risk Personal Property
- 60. 41 CFR Part 109, Department of Energy Property Management Regulations, 109-43.307-51 Classified Property Requirements, 109-42.1102-51(b)
- 61. 41 U.S.C. 15, Transfers of contracts; assignments; assignee not subject to reduction or setoff
- 62. 49 CFR Part 100-180 and 350-399, Transportation

DOE POLICIES AND ADDITIONAL REFERENCE DOCUMENTS

- 1. Secretary Richardson's Announcement of the Moratorium — DOE News Release "Energy Secretary Richardson Blocks Nickel Recycling at Oak Ridge" (January 12, 2000)
- 2. Secretary Richardson's Memorandum on Suspension — Memorandum for Heads of Departmental Elements from Secretary Bill Richardson: "Release of Surplus and Scrap Materials" (July 13, 2000)
- 3. Memorandum for Assistant Secretary James A. Rispoli from Deputy Assistant Secretary Frank Marcinowski: "Request approval to develop an acquisition and implementation strategy to release radiologically-contaminated nickel in controlled radiological applications." (September 26, 2006)
- 4. International Atomic Energy Agency (IAEA) Safety Standard Series: Application of the Concepts of Exclusion, Exemption and Clearance, Safety Guide No. RS-G-1.7, Table 2 Values of Activity Concentration for Radionuclides of Artificial Origin in Bulk

SALES AGREEMENT DE-SC30-10CC40098

Exhibit 3 – BUYER DELIVERABLES

No.	Description	Due Date	DOE Approval	Sales Agreement Clause
1	Evidence of necessary Licenses, Permits and Authorizations, or detailed, credible schedule for receipt of such.	Date of proposal submittal (include with proposal)	Pass/Fail Criteria in Proposal Evaluation	Article X
2	End-Use Certificate (DOE F 580.1) for each Sub-Lot	Date of Title Transfer of each Sub-Lot	Organizational Property Management Officer (OPMO), at contract award	Article XI.B
3	Security Plan (for Lots 1 and 2)	No later than 45 business days after award.	ORO, no later than 45 business days after submittal	Article XVIII
4	Inventory Control Plan (for Lots 1 and 2)	No later than 45 business days after award	Contracting Officer, no later than 45 business days after submittal	Article XI.B
5	Transportation Plan (for Lots 1 and 2)	No later than 45 business days after award	ORO & PPPO, no later than 45 business days after submittal	Article V.D
6	In the case where Buyer operates under DOE's regulatory authority, DOE Directive Implementation documents (Health & Safety Plan, Quality Assurance Plan, Waste Management Plan, etc), as defined in Interface MOU(s)	No later than 45 business days after award	ORO & PPPO, no later than 45 business days after submittal	Articles VIII, XII
7	Interface MOU for Paducah	No later than 45 business days after award	PPPO, no later than 45 business days after submittal, and prior to initial receipt.	Article VIII.A
8	Interface MOU for Oak Ridge	No later than 45 business days after award	ORO, no later than 45 business days after submittal and prior to initial receipt.	Article VIII.A
9	Evidence of Financial Surety and the amount of, and, if necessary, the schedule to purchase, Performance Bond	Date of proposal submittal (include with proposal)	N/A for financial assurance; For Performance Bond purchase, Contracting Officer, no later than 4 business days after receipt	Articles XI.B and XXV
10	Initial receipt/possession	No later than 365	Contracting Officer,	Article V.A

SALES AGREEMENT DE-SC30-10CC40098

No.	Description	Due Date	DOE Approval	Sales Agreement Clause
	of a Sub-Lot nickel	calendar days after award. The Buyer shall possess the material in accordance with DOE safeguards and security requirements, the approved Security Plan, and DOE property management requirements. The declassification and decontamination process will be accomplished to the satisfaction of the cognizant DOE Program Office/Security Authority, who will act as the certifying official.	after certification by the cognizant DOE Program Office/Security Authority	
11	Title Transfer of each Sub-Lot	The Buyer will receive title after DOE certification of declassification and decontamination of the nickel and DOE-approved End-Use Certificate for each Sub-Lot. The cognizant DOE Program Office/Security Authority, will act as the certifying official.	Contracting Officer, after certification by the cognizant DOE Program Office/Security Authority	Article VII
12	Payment for each Sub-Lot	Within 5 business days after Title Transfer for each Sub-Lot	N/A	Article VII
13	E-mail notification to DOE	Upon sending wire transfer	N/A	Article VII
14	End-Use Certificate for Any Subsequent Transfers	As required with each subsequent transfer	OPMO	Article XI.B

SALES AGREEMENT DE-SC30-10CC40098

Exhibit 4 – DOE FORM 580.1, U.S. DEPARTMENT OF ENERGY END-USE CERTIFICATE (signed copy to be included at award)

DOE F 580.1 (Rev Date 05/03)		OMB Control Number 1910-5121
U.S. DEPARTMENT OF ENERGY END-USE CERTIFICATE		
STATEMENT REQUIRED FOR OBTAINING High-Risk PROPERTY BEING RELEASED FROM U.S. DEPARTMENT OF ENERGY (DOE) CONTROL (Please read Privacy Act Statement before completing this form. If additional space is required, use separate sheets and identify by Block Number) TYPE OR PRINT ALL INFORMATION	AGENCY APPROVAL FOR SALE/TRANSFER OF NSG TRIGGER LIST/ DUAL USE ITEMS OR U.S. MUNITIONS LIST ITEMS: <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> Administrator, National Nuclear Security Administration (NA-1)	Sale/Transfer Document Control Number <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/>
<p style="text-align: center;">Privacy Act Statement</p> <p>Authority: 10 USC 136; 40USC 471; 50 USC 2411; 22 USC 2751; and EO 9397.</p> <p>Principal Purpose(s): Determine applicant eligibility to participate in the DOE sales and/or non-Federal transfer programs and ensure that property recipients comply with the terms of the sale or transfer.</p> <p>Routine Uses: Data may be disclosed to Department of State, Commerce, Treasury, Transportation, and Justice for determining compliance with applicable laws and regulations and to the General Services Administration to determine presence of debarment proceedings against a recipient.</p> <p>Disclosure: Voluntary, however, failure to provide the requested information may result in ineligibility to receive Department of Energy (DOE) surplus personal property. 10 CFR 1008, DOE Privacy Act Rules apply.</p>		
<p style="text-align: center;">OMB Burden Disclosure Statement</p> <p>Public recording burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Office of Records and Business Management (IM-11), Paperwork Reduction Project (1910-5121), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-5121), Washington, DC 20503.</p> <p>RETURN COMPLETED FORM TO THE OFFICE STATED ON THE INVITATION FOR BID (IFB), SOLICITATION, PROPOSAL, OR OTHER DOCUMENT FOR NON-FEDERAL TRANSFER OF TITLE OR POSSESSION.</p>		
<p>INSTRUCTIONS. The purpose of this form is to clear you and/or your business to acquire High-Risk (HR) property being released from DOE control. This form must be fully completed by all applicants for HR property prior to acceptance by the U.S. Government and constitutes an integral part of this bid or transfer.</p> <p>The following applies to all high-risk property subject to sale or non-federal transfer using this form: the use, disposition, export or re-export of this property is subject to the publications, penalties, or other provisions of the economic programs administered by the Office of Foreign Assets Control, U.S. Treasury Department, 31 CFR, Chapter V.</p> <p>Please read the instructions associated with this form. It is your responsibility to fully complete and submit this form. The information given must be true and correct and will become a part of this contract. Each block MUST have an applicable entry. If you have already provided the requested information in a previous block, you may enter "SAME AS BLOCK X," citing the original block number. If the requested information does not apply to you, insert "NONE" or "NOT APPLICABLE" (do not use "N/A"). FAILURE TO COMPLETE OR PROVIDE REQUIRED INFORMATION COULD SIGNIFICANTLY DELAY OR DENY ANY SUBSEQUENT ACTIONS. If you need additional space, you may use separate sheets. The continuation sheet must include your name and block number relating to that specific block of information. For an applicant who is acting solely as an Agent, the Principal must sign this form. Return the form to the DOE office address shown in Block 38 of this form.</p>		

SALES AGREEMENT DE-SC30-10CC40098

DOE F 580.1 (Rev Date 05/03)		OMB Control Number 1910-5121			
<p>The term <i>Approving Official</i> is used to indicate the person authorized to act for the U.S. Government (Organizational Property Management Officer (OPMO) or Personal Property Official designated by OPMO). For all sales or non-federal transfers of property determined to be items on the Nuclear Suppliers Group (NSG) Trigger/Dual Use List or the U.S. Munitions List, the Approving Official will forward this form to the Administrator for National Nuclear Security Administration, (NA-1), through the Office of Export Control Policy and Cooperation (NA-242), for approval before release of the property. For all sales or non-federal transfers of High-Risk Information Technology, the Approving Official will forward an information copy of this form to the <i>Property Executive, ME-632</i>.</p>					
SECTION I. RECIPIENT INFORMATION					
1. Full Name (Last, First, Middle (include Aliases))		5. Social Security Number (SSN)			
2. Place of Birth (City or County, State, Country)		6. Alien Registration Card Number or Country Id. Number			
3. Date of Birth (MM/DD/YYYY)	4. Telephone Number (Include Area Code)				
7. Mailing Address		8. Physical Address			
SECTION II. BUSINESS INFORMATION					
Applicability: This statement applies to the property for which we have submitted our bid/offer pursuant to the above identified invitation.					
Business/Corporation Headquarters		Branch Office(s) Information			
9. Name (Include Acronyms)		10. Name (Include Acronyms)			
11. Address (Physical Location) and Telephone Number		12. Address (Physical Location) and Telephone Number			
13. Type of Firm: <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other					
14. Nature of End User's Business	15. Nature of Principal's Business	16. FIRM'S Identification/Fed. Tax Number			
17. All Corporate Officers, Directors, Partners or Agents are to provide, on a separate sheet of paper, their names, addresses, SSNs, dates and places of birth. Failure to provide this information could significantly delay or deny the award.					
SECTION III. DESCRIPTION OF PROPERTY TO BE ACQUIRED BY RECIPIENT					
18. <u>Line Item</u>	19. <u>Quantity</u>	20. <u>Description</u>	21. <u>ECCN on CCL</u>	22. Section of NSG <u>Trigger List</u>	23. Category on U.S. <u>Munitions List</u>
SECTION IV. END USE/USER INFORMATION					
If this is a negotiated exchange, identify the property being exchanged: _____					
PURPOSE: THE PROPERTY REFERRED TO IN ABOVE SALE/ TRANSFER NUMBER WILL BE UTILIZED FOR THE FOLLOWING: (Enter an "X" in the appropriate item(s) below. In case of resale, Items 29 or 30 MUST be marked.)					
<input type="checkbox"/> 24. Retention for the following specific use (See note):			<input type="checkbox"/> 25. Resold in the form received for the following use (See note):		
<input type="checkbox"/> 26. The property will not be sold or otherwise disposed of for use outside of the United or to non-U.S. Citizens/Nationals in the United States.			<input type="checkbox"/> 27. The property may be re-exported in the form received to the following country/countries:		

SALES AGREEMENT DE-SC30-10CC40098

<div style="display: flex; justify-content: space-between;"><div>DOE F 580.1 (Rev Date 05/03)</div><div>OMB Control Number 1910-5121</div></div>	
<div style="border: 1px solid black; padding: 5px; min-height: 100px;"><input type="checkbox"/> 28. Resale after following alteration (description of final production): _____ in (Country/Countries): _____ and distribution in (Country/Countries): _____ _____</div>	<div style="border: 1px solid black; padding: 5px; min-height: 100px;"><input type="checkbox"/> 29. If sold, name, address, and telephone number of sub-purchaser(s): _____ _____ _____</div>
<div style="border: 1px solid black; padding: 5px; min-height: 100px;"><input type="checkbox"/> 30. The customers are unknown at this time. If required by the contract/transfer document, I will obtain prior written approval for the resale of any of the property covered by the contract.</div>	
<div style="border: 1px solid black; padding: 5px; min-height: 100px;">31. ADDITIONAL INFORMATION: State any other material facts relating to end user and use of the property which may be of value in considering the proposal:</div>	
<div style="border: 1px solid black; padding: 5px; min-height: 100px;">NOTE: EXAMPLE FOR SPECIFIC USES: AIRCRAFT - The bidder/recipient certifies that the aircraft will be used: as a flyable aircraft; as a non-flyable aircraft to be used only for parts, display, or ground instruction, etc.; for resale as a flyable aircraft.</div>	
SECTION V. UNDERSTANDING AND NOTIFICATIONS	
<div style="border: 1px solid black; padding: 5px; min-height: 400px;"><p>1. The use, disposition, export and re-export of property is subject to all applicable U.S. Laws and Regulations, including the Arms Export Control Act (22 USC 2751 et. seq.); Export Administration Act of 1979 (50 USC App. 2401 et seq.) continued under Executive Order 12924; International Traffic in Arms Regulations (22 CFR 120 et seq.); Export Administration Regulations (15 CFR 730 et. seq.); Foreign Assets Control Regulations (31 CFR 500 et. seq.) and the Espionage Act (18 USC 793 et. seq.); which among other things, prohibit:</p><ul style="list-style-type: none">A. The making of false statements and concealment of any material information regarding the use or disposition, export or re-export of the property; andB. Any use, disposition, export or re-export of the property which is not authorized by applicable statute and regulation.<p>2. The submission of false or misleading information and/or concealment of any material facts regarding the use, disposition or export of property may constitute a violation of provisions of 18 USC 793/1001, 22 USC 2778/12779, 50 USC App. 2410, and 50 USC App. I-44. Sanctions for violations will be in conformity with U.S. laws and regulations (including Federal Acquisition Regulations) and may include the denial of U.S. export privileges and of any participation in future U.S. Government contracts.</p><p>3. The Sale/Transfer Document Number must be referenced when submitting an application for an export license for High-Risk property to the Department of State or Department of Commerce, as appropriate. It is the responsibility of the purchaser/bidder to determine what the applicable requirements may be and to obtain all necessary authorizations and approvals.</p><p>4. Any export of High-Risk property identified on the NSG Trigger/Dual Use List or U.S. Munitions List, must be done in full compliance with United States export control laws and regulations. This understanding must be conveyed if such items are transferred to any recipient. Subsequent recipients of DOE High-Risk property identified on the NSG Trigger/Dual Use List or U.S. Munitions List are subject to all export laws and regulations, and need to understand that this requirement shall be passed along to subsequent recipients.</p><p>5. Each time High-Risk property is transferred, the information regarding the above laws and regulations must always be passed to all subsequent purchasers/receivers, regardless whether a U.S. or foreign person. If subsequent purchaser/receiver is not a U.S. citizen/national or permanent resident of the United States of America, seller/transferor must obtain a validated export license or other authorization, prior to transfer. Records of resale must remain available for DOE review.</p><p>6. The Purchaser/Recipient agrees to cooperate with and to permit all authorized Government representatives to inspect and verify the existence and condition of export-controlled High-Risk property.</p></div>	
SECTION VI. CERTIFICATION STATEMENT TO BE SIGNED BY RECIPIENT	
<div style="border: 1px solid black; padding: 5px; min-height: 100px;">1. I do certify that all information given in this statement is true and correct to the best of my knowledge and belief and I have not knowingly omitted any information which is inconsistent with this statement. I understand this statement will be referred to and be a part of the contract of sale/transfer with the U.S. Government. I agree to submit a written request for amendment of this statement to the Approving Official prior to effecting any change of fact or intention from that stated herein or in any prior amendment, whether occurring before or after the release of the commodities, and not to effect such changes without first receiving written approval of the Approving Official.</div>	

SALES AGREEMENT DE-SC30-10CC40098

DOE F 580.1 (Rev Date 05/03)		OMB Control Number 1910-5121
<p>2. I acknowledge having been advised that the export of High-Risk property may be subject to the U.S. Government export control laws and regulations, and may not be exported and, its export may require a valid State/Commerce Department export license, or other authorization. This understanding must be conveyed if such items are transferred to any recipient. Subsequent recipients of DOE High-Risk property identified on the NSG Trigger/Dual Use List or U.S. Munitions List are subject to all export laws and regulations, and need to understand that this requirement shall be passed along to subsequent recipients.</p> <p>A. Should I transfer property to another U.S. citizen/national or permanent resident, I will obtain their signature as having read and understood this restriction and their certification that they will place the same restriction on any subsequent transfer and obtain signature thereto and will provide a copy to the Approving Official.</p> <p>B. Should I transfer property to a non-U.S. citizen/national or non-permanent resident, I will do so in full compliance with United States export control and regulations and if necessary, obtain a validated State/Commerce Department export license or other authorization.</p> <p>3. Neither the applicant, corporate officers, directors nor partners are:</p> <p>A. The subject of an indictment for or has been convicted of violating any of the U.S. Criminal statutes enumerated in 22 CFR 120.27 since the effective date of the Arms Export Control Act, Public Law 94-329, 90 Statute 729 (June 30, 1976); or</p> <p>B. Ineligible to contract with, or to receive, a license or other approval from any agency of the U.S. Government.</p> <p>4. The person signing this DOE Form 580.1 is</p> <p><input type="checkbox"/> a Citizen of the United States of America, or</p> <p><input type="checkbox"/> lawfully admitted to the United States Permanent Residency and maintains such residence under the Immigration and Nationality Act, as amended (8 USC 1101 (a), 20, 60 Statute 163), or</p> <p><input type="checkbox"/> a Citizen of _____, and/or</p> <p><input type="checkbox"/> is an official of a foreign government entity in the United States.</p>		
32. Name (Type or Print)	33. Signature	34. Date Signed (MM/DD/YYYY)
SECTION VII. U.S. DEPARTMENT OF ENERGY APPROVING OFFICIAL		
35. Name (Type or Print)	36. Title	37. Telephone Number
<p>38. Address</p> <p>39. Approving Official requires notification of resale/transfer of this property (see Section VI, 2.A&B)</p> <p>40. Signature _____</p> <p>E-Mail: <input type="checkbox"/> YES <input type="checkbox"/> NO</p>		
SECTION VIII. CERTIFICATION STATEMENT TO BE SIGNED BY ANY U.S. CITIZEN/NATIONAL/PERMANENT RESIDENT HOLDER TO WHOM MATERIAL IS SOLD		
<p>I _____, acknowledge having been advised that the High-Risk property I have purchased/received from Mr./Ms./Mrs./Miss _____ on (date) _____, is controlled by the U.S. Government and cannot be transferred (exported, sold, given) to a non-U.S. citizen/National or non-Permanent Resident without a validated State/Commerce Department export license.</p> <p>Should I transfer this property to another U.S. Citizen/National or U.S. Permanent Resident, I will obtain their signature (1) as having read and understood this restriction, and (2) as their certification that they will place the same restriction on any subsequent transfer and obtain a signature to retain in their files. Upon request, a copy of the signed certification will be provided to the Department of Energy Approving Official.</p> <p>Should I transfer this property to a non-U.S. Citizen/National or non-Permanent Resident, I will obtain a validated State/Commerce Department export license before I transfer the High-Risk property to that person. I will not transfer this property to countries, regimes and nationals targeted under the sanctions programs administered by the U.S. Treasury Departments Office of Foreign Assets Control.</p>		
47. Name (Type or Print)	48. Signature	49. Date Signed

SALES AGREEMENT DE-SC30-10CC40098

Exhibit 5 – PERFORMANCE BOND

The Buyer (XXX Company, LLC hereafter referred as XXX)	DATE BOND EXECUTED <i>(must be same or later than date of subcontract)</i>
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PERFORMANCE BOND

(See Instructions on next page)

PRINCIPAL <i>(Legal name and business address)</i>	TYPR OF ORGANIZATION ("X" one)	
	<input type="checkbox"/> INDIVIDUAL	<input type="checkbox"/> PARTNERSHIP
	<input type="checkbox"/> JOINT VENTURE CORPORATION	<input type="checkbox"/>
	STATE OF INCORPORATION	
SURETY(IES) <i>(Name(s) and business address(ies))</i>	PENAL SUM BOND*	
	SUBCONTRACT DATE	SUBCONTRACT NO.

KNOW ALL MEN BY THESE PRESENTS, That we, the Principal and Surety(ies) hereto are firmly bound to the Buyer and to the United States of America (hereinafter called the Government) in the above penal sum (as adjusted by subcontract modifications) for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally: Provided, That, where the Sureties are corporations acting as co-sureties, we, the Sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into the subcontract identified above.

NOW, THEREFORE, if the Principal shall perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said subcontract during the original term of said subcontract and any extensions thereof that may be granted by the Buyer with or without notice to the Surety(ies), and during the life of any guarantee required under the subcontract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said subcontract that may hereafter be made, notice of which modifications to the Surety(ies) being hereby waived: and

IN WITNESS WHEREOF, the Principal and Surety (ies) have executed this performance bond and have affixed their seals on the date set forth above.

PRINCIPAL			
Signature(s)	1	2	Corporate Seal
	(Seal)	(Seal)	
Name(s)	1	2	

SALES AGREEMENT DE-SC30-10CC40098

Title(s) (Typed)			
INDIVIDUAL SURETY(IES)			
Signature(s)	1 <div style="text-align: right;">(Seal)</div>	2 <div style="text-align: right;">(Seal)</div>	
Name(s) (Typed)	1	2	
CORPORATE SURETY(IES)			
Surety A	Name & Address		State of Inc.
	Signature		Liability Limit
	Name(s) Title(s) (Typed)		

INSTRUCTIONS

1. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of this form. The bond shall be signed by an authorized person and shall run for the life of the ownership. Where such person is signing in a representative capacity (e.g., an attorney-in-fact) but is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved, evidence of his authority must be furnished.

2.
 - a. Corporations executing the bond as sureties must be among those appearing on the Treasury Department's list of approved sureties and must be acting within the limitations set forth therein. Where more than a single corporate surety is involved, their names and addresses (city and State) shall be inserted in the spaces. (Surety A, Surety B, etc., headed "CORPORATE SURETY(IES)", and in the space designated "SURETY(IES)" on the face of this form only the letter identification of the Sureties shall be inserted.
 - b. Where individual sureties execute the bond, they shall be two or more responsible persons. A completed Affidavit of Individual Surety, for each individual surety shall accompany the bond. Such sureties may be required to furnish additional substantiating information concerning their assets and financial capability as the Buyer may require.

3. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Seal" and, if executed in Maine or New Hampshire, shall also affix an adhesive seal.

4. The name of each person signing this performance bond should be typed in the space provided.

SALES AGREEMENT DE-SC30-10CC40098

Exhibit 6 – PRICE, QUANTITY AND PAYMENT TABLES

(to be filled in by the Buyer as part of the proposal)

Table 1, Sales Price

Lot No.	Estimated Quantity Weight (Tons Nickel)(Do Not Modify)	Price per pound (in USD)	Lot Price (in USD)	Lot Description
1	9,700 Paducah GDP	\$	\$	Paducah GDP Nickel
2	5,600 ETTP	\$	\$	ETTP Nickel
Total Price (in USD)			\$	

Sale is for both lots 1 & 2: no single lot Sales Agreements will be made.

Table 2, Receiving Dates

Lot Number	Sub-Lot Number	Estimated Receiving Quantity (in pounds)	Receiving Due Date
1	1.1		
1	1.2		
1	1.3		
1	etc.	etc.	etc.
2	2.1		
2	2.2		
2	etc.	etc.	etc.

- Note: Insert additional rows as needed.
- A reasonable timeframe for receiving of all of the material is sixty (60) months from the date of initial receipt (i.e., Sub-Lot Number 1.1).

Table 3, Schedule for Title Transfer and Payment

Sub-Lot Number (from Table 2)	Title Transfer Date	Payment Date	Price per Pound (in USD) (from Table 1)	Estimated Receiving Quantity (in pounds)	Estimated Payment (in USD)
1.1					
1.2					
1.3	Etc.	etc.	etc.	etc.	etc.
2.1					
2.2					
etc.	Etc.	etc.	etc.	etc.	etc.

* Note: Insert additional rows as needed.

- Title transfer of all Nickel shall be completed within ten (10) years from the date of initial receipt.

Exhibit 7 – COMMUNITY COMMITMENT PLAN
(to be completed by the Buyer as part of the proposal)

SALES AGREEMENT DE-SC30-10CC40098

LIST OF ATTACHMENTS

Attachment 1 – Proposal Preparation Instructions

Attachment 2 – Agreement Execution Documents

Attachment 3 – Competitive Award Decision Factors

Attachment 4 – Buyer Experience and Past Performance Reference Information Worksheet

Attachment 5 – Buyer Past Performance Letter & Questionnaire

SALES AGREEMENT DE-SC30-10CC40098

ATTACHMENT 1 - PROPOSAL PREPARATION INSTRUCTIONS

1. Proposal Preparation Instructions - General

NOTE: If there is any chance that any portion of your submission will be or may be classified, please read the instructions on Page A-13, Section 5.g. If a security incident were to occur, it will be thoroughly investigated.

- a. This Sales Agreement requires the Buyer to submit three separate volumes of written proposal information. Page limitations are provided in the specific proposal instructions for each volume. Numbers of copies are shown below:

<u>Proposal Volume</u>	<u>Title</u>	<u>Copies Required</u>
Volume I	Offer and Other Documents	1 original, 5 copies, 1 CD-ROM
Volume II	Technical Proposal	1 original, 5 copies, 1 CD-ROM
Volume III	Price Proposal	1 original, 5 copies, 1 CD-ROM

CD-ROMs shall be clearly labeled and contain files that can be read using Microsoft Office 2003 or 2007. The CD-ROMs are provided for the convenience of the DOE. The written material constitutes the official Offer and proposal. In the event of a conflict, the written material takes precedence over the CD-ROM text.

- b. All pages of each volume shall be appropriately numbered and identified with the name of the Buyer. Any time a page limitation is specified, a page is defined as a single side. All pages of the proposal are to be submitted on 8 ½" x 11" sheets – no fold-out sheets are allowed. Printing is to be on one side of paper only. Print type used in the text portions of the proposal shall be no smaller than size 12. Print type used in charts, graphs, figures and tables may be smaller than size 12, but must be clearly legible. Page margins (distance between the edge of the page and the body of the proposal) shall be 1-inch on the top, bottom, left, and right sides of the page. Those pages that exceed the limits set forth in this Attachment will not be considered in the evaluation (note: Tables of Contents, Lists of Figures, dividers, tabs, or similar inserts that do not provide any substantive information are not counted as a page).
- c. If a proposal exceeding the page limitation is received, the additional pages will not be read and evaluated by DOE. The pages exceeding the page limitation will be removed from the proposal.

SALES AGREEMENT DE-SC30-10CC40098

- d. The original of the proposal shall contain signed originals of all documents requiring signature by the Buyer. Use of reproductions of signed originals is authorized in all other copies of the proposal.
- e. Proposals are expected to conform to all Sales Agreement provisions and be prepared in accordance with the instructions and outline contained in this Attachment. The proposal information will be reviewed to ensure compliance by the Buyer with all aspects of this Sales Agreement. To aid in evaluation, proposals shall be clearly and concisely written, neat, indexed (cross-indexed as appropriate), and assembled logically. Extraneous, repetitious, or wordy submissions are not desired. Pages shall be sequentially numbered with the volume and page numbers and the name of the Buyer, the date, and Sales Agreement number on each page. Failure to respond to, or follow the instructions regarding the organization and content of the technical proposal may result in the Buyer's proposal being deemed non-responsive.

2. Proposal Preparation Instructions – Cover Letter and Volume I, Offer and Other Documents

- a. **Cover Letter.** The cover letter shall include but not be limited to the following:
 - (1) The Sales Agreement number;
 - (2) The name, address, telephone numbers, facsimile numbers, and electronic addresses of the Buyer;
 - (3) Names, titles, telephone numbers, facsimile numbers, and electronic addresses of persons authorized to negotiate with the Government on the Buyer's behalf in connection with this Sales Agreement;
 - (4) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority;
 - (5) The name, address, telephone number, facsimile number, and electronic address of the individual in the Buyer's organization to be contacted, if necessary, during evaluation of the proposal;
 - (6) The complete formal name and address of the Buyer's organization and/or other participants to be used in any resulting contract. Provide Dun and Bradstreet LTD DUNS number for each organization and new entity if one is being created;
 - (7) A statement that the Buyer grants to the Department of Energy or its authorized representatives, the right to examine, for purposes of verifying the information submitted, those books, records, documents,

SALES AGREEMENT DE-SC30-10CC40098

and other supporting data that will permit adequate evaluation; and this right may be exercised in connection with any such reviews deemed necessary by the Government.

- b. **Volume I, Offer and Other Documents.** There is no page limitation to Volume I. Volume I shall include the following (in the order listed):

(1) Complete, sign, and submit the cover page of this Agreement, Sale of Government Property Negotiated Sales Agreement.

(a) Instructions for completing SCHEDULE Section of Cover Page
(Page 1)

- i. The Buyer completes the SCHEDULE on Page 1 at the time of proposal.
- ii. The "Estimated Quantity Weight (Tons Nickel)" represents the approximate quantity available for purchase. The exact quantities to be sold will be determined after weighing each Sub-Lot by the Buyer (see Article VII.E.5).
- iii. The "Price per pound" consists of two separate prices: the Paducah GDP price per pound and the ETTP price per pound.
- iv. The "Lot 1 Price" is defined as the total of the "Estimated Quantity Weight" of the Paducah GDP Nickel (converted to pounds) times the "Price per pound" of the Paducah GDP Nickel.
- v. The "Lot 2 Price" is defined as the total of the "Estimated Quantity Weight" of the ETTP Nickel (converted to pounds) times the "Price per pound" of the ETTP Nickel.
- vi. The "Total Price" is defined as the sum of Lot 1 price plus Lot 2 price. This price is an estimate, based on the Estimated Quantity Weight. The price paid by the Buyer will be based on the actual weight of the Nickel.
- vii. The Buyer shall not modify the Estimated Quantity Weight.

The listed price(s) in total United States Dollars (USD) represents the Buyer's proposal for the purchase of the Nickel, in accordance with the requirements in this Sales Agreement. Submission of a signed proposal is an offer to purchase in accordance with terms and conditions set forth herein. Execution by the Seller (Page 1, Sale of Government Property Negotiated Sales Agreement) shall constitute acceptance of an offer to purchase.

The Seller will transfer title of approximately 15,300 tons of declassified and decontaminated Nickel at the price per pound and the total price provided in the Schedule.

SALE IS FOR BOTH LOTS 1 & 2: NO SINGLE LOT SALES AGREEMENTS WILL BE MADE.

SALES AGREEMENT DE-SC30-10CC40098

- (2) Complete, sign and submit all Agreement Execution Documents provided at Attachment 2. For Sections (2), (3), (4), and (5) of the Attachment, if the Buyer has completed On-line Representations and Certifications electronically, via the Online Representations and Certifications Application (ORCA) website, the Buyer may choose to include the paragraph below in its proposal instead :

The Buyer has completed the annual representations and certifications electronically via the ORCA website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the Buyer verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this sale, as of the date of this offer and are incorporated in this offer by reference; except for the changes identified below *[Buyer to insert changes, identifying change by clause number, title, date]*. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

- (3) The Buyer shall include in its proposal a plan for the community commitment activities it intends to undertake at the ETTP and the Paducah GDP communities (see Article XXVII, Community Commitment Plan). This plan will become part of the final Sales Agreement as Exhibit 7.
- (4) The Buyer shall submit copies of the most recent income statement, balance sheet, and list of credit references for the company and any other documentation that will verify the financial level of business transactions or other evidence of financial responsibilities.
- (5) Prospective buyers are required to submit documentation that identifies/establishes the clear organizational and financial relationships with parent and affiliated entities, including any foreign ownership. Such documentation includes, but is not limited to: articles of incorporation, agreements, and financial statements for all affected parties. The Seller will conduct, as necessary, background and security investigations with appropriate government agencies. Foreign ownership, by itself, does not preclude or disqualify a prospective buyer from obtaining award of a Sales Agreement resulting from this Request for Proposal.
- (6) Offer Acceptance Period. The minimum offer acceptance period is 365 calendar days.

3. Proposal Preparation Instructions – Volume II, Technical Proposal. The technical volume is limited to 75 pages. Proposals will be evaluated based on the following technical Pass/Fail Criteria and Competitive Award Decision

SALES AGREEMENT DE-SC30-10CC40098

Factors:

a. PASS/FAIL CRITERIA

The Buyer must demonstrate that the following conditions are met at the time of proposal. The licenses, permits, authorizations, and financial surety documentation are not included in the page limitation.

- (1) Provide evidence of, and describe, the Buyer's current, signed, approved, authorization or ability to obtain authorization by DOE to possess and process classified (confidential-restricted data) material at a DOE (safeguards and security) approved facility. The lack of such authorization may make the offer unacceptable for an award without discussions. If authorization will not be approved and effective on the day of proposal submittal, provide a detailed, credible, resource-loaded Primavera schedule outlining activities required to obtain such authorization prior to initial receipt.
- (2) Describe and provide evidence of the Buyer's current, signed, approved, NRC (or Agreement State) license or authorization by DOE to possess and process contaminated material. The lack of such authority may make the offer unacceptable for an award without discussions. If licenses, permits and authorizations will not be approved and effective on the day of proposal submittal, provide a detailed, credible, resource-loaded Primavera schedule outlining activities required to obtain such license or authority prior to initial receipt.
- (3) Describe and provide evidence of the Buyer's current, signed, approved, financial surety for: (1) the clean up, closure, and post-closure care of their nickel disposition storage and processing facilities, (2) the clean up of any accidental releases of radioactive and/or hazardous constituents during the active life of their nickel disposition facilities; (3) compensation of any third parties for any resulting bodily injury or property damage, and (4) the packaging, transportation, and disposal of nickel for any phase in the Nickel disposition process, e.g., decontamination, declassification, alloying, fabrication, and end-use. This may be accomplished by financial assurance as part of licensing and permitting requirements and processes, and by the purchase of a performance bond (Exhibit 5) for those activities not already covered under existing licenses/permits. The amount of surety shall cover all Nickel disposition activities, and shall be estimated, with justification by the Buyer, as part of its proposal. If the Buyer does not have adequate financial assurance at the time of proposal submission, it shall provide the performance bond amount and the plan and schedule for such purchase.

b. COMPETITIVE AWARD DECISION FACTORS

SALES AGREEMENT DE-SC30-10CC40098

(1) Technical Approach and Controls

The Buyer shall demonstrate a thorough understanding of the requirements of the Sales Agreement, as well as demonstrate its capabilities to perform these requirements within the United States.

Describe the proposed approach, its capability, and maturity of its technology (e.g., are the methods and approach established and proven?), the plan and schedule to complete the steps required for disposition of the Nickel. Describe how the proposed approach addresses requirements, e.g., facility authorization, licenses, permits and approvals. Describe how the proposed approach can meet the disposition schedule. The approach shall include:

NOTE: Steps 1 through 5 must be performed in the United States.

Declassification and Decontamination of the Nickel (Steps 1 and 2):

- Receipt of 15,300 tons of classified, contaminated Nickel;
- Transportation of the nickel ingots and shredded nickel from their respective storage locations to a DOE-approved processing facility to declassify and decontaminate the Nickel (include the size, location and type of facility(ies));
- Application of regulatory requirements (e.g., Title 10 of the Code of Federal Regulations and respective DOE orders and directives), facility authorization, NRC (or Agreement State) license (or DOE's authorization) during declassification and decontamination (see Article VII.C);
- The declassification and decontamination/purification procedures at a DOE (safeguards and security) approved facility;
- The expected quality of the product at each step; NOTE: After Step 2, the residual radioactivity on the Nickel shall meet IAEA clearance levels, e.g., Technetium-99 less than 27 pCi per gram or 0.00000000027 Ci/g. The Buyer must apply the ALARA principle to determine the appropriateness of decontamination at or below these clearance levels;
- Title Transfer and sale will occur only upon DOE certification of declassification and decontamination of the Nickel and compliance with DOE property management requirements. The cognizant DOE Program Office/Security Authority will act as the certifying official;
- Decontaminate, decommission and/or dispose of material, equipment, facilities, tools and infrastructure consistent with the applicable rules and regulations after completion of the processes, in accordance with safeguards and security requirements;
- Projected schedule for complete receipt, transportation, declassification and decontamination of the Nickel (a reasonable timeframe for receipt of all of the material is sixty (60) months from the date of receipt of the first Sub-Lot). Title transfer of all Nickel

SALES AGREEMENT DE-SC30-10CC40098

shall be completed within ten (10) years from the date of initial receipt.

Manufacturing, End-Use and Disposal (Steps 3-5):

- Application of regulatory requirements (NRC, Agreement State, or DOE [may include transfer via an interagency agreement between the DoD and DOE]), in manufacturing, end-use, and disposal;
- Alloying, fabrication, end-use and disposal of manufactured products;
- The expected quality of the product at each step, the alloying plan;
- Processing and fabrication of the Nickel into a composition and form (include the size, location and type of alloying, equipment and fabrication facility(ies));
- Projected schedule to alloy and/or fabricate;
- The alloying and/or fabrication procedures;
- The expected end-product(s);
- Deployment of the end-product in accordance with the Sales Agreement requirements (include the size, location and type of end-use facility(ies));
- Functions and design life of the end-product(s);
- Disposal of end-product(s) and any nickel-containing items in a DOE-approved, regulated disposal facility(ies);
- Decontaminate, decommission and/or dispose of material, equipment, facilities, tools and infrastructure consistent with the applicable rules and regulations after completion of the processes;
- Projected schedule for alloying, fabrication, manufacture, deployment of end-product(s), and disposal of the end-product(s) at the end of its useful life.

Describe the proposed approach, plan, and schedule to establish perpetual domestic regulatory and administrative control of the nickel material (Article XI). Describe how the operation of any required facilities will be under an NRC (or Agreement State) activity/location-specific license or in accordance with DOE authorization (e.g., regulations, DOE orders, DOE policies). Describe how perpetual inventory control and chain-of-custody control will be accomplished for the Buyer and any and all subsequent recipient(s). Describe the processes, systems and procedures for tracking and reporting of the Nickel, from initial purchase until the end-product is disposed of in a regulated facility. Describe approach to inventory reporting and tracking, domestic inventory verification, inventory control, chain-of-custody control, oversight and performance enforcement, for the Buyer and any and all subsequent recipient(s) (e.g., the Buyer's use of performance bonding for subsequent recipient(s)).

In order to provide DOE confidence that the technical approach will be completed as proposed, the Buyer shall describe the business

SALES AGREEMENT DE-SC30-10CC40098

management systems and resources used to execute the technical approach, as well as demonstrate the Buyer's capabilities to utilize these systems. Describe the Buyer's project management approach and business systems (technical, schedule (including a summary Gantt Chart and Logic Network), change management, organizational management structure, work scope risks and uncertainties (including approach for elimination, avoidance and mitigation), Work Breakdown Structure). Describe key facilities, equipment, and interfaces that will be a part of the Interface MOUs (Article VIII).

(2) Extent to Which End-Use Achieves DOE Missions

Describe how end-uses for products in radiologically-controlled applications achieve DOE missions. Changes to end-use are prohibited, and are considered a breach of the Sales Agreement. All of the following meet the "radiologically-controlled" requirement, assuming the end-product is contained/packaged, identified, inventoried, tracked and verified in accordance with Article XI.

The following are characteristics of end-uses that are preferred. These five (5) characteristics are listed in no order of importance or preference: (a) enhance electricity storage; (b) improve the U.S. electrical distribution system; (c) regulate peak load frequency; (d) modernize the U.S. energy infrastructure, and, (e) ensure the productive and optimal use of energy resources while limiting environmental impact.

Other characteristics of end-uses that achieve DOE missions, include (in no order of importance or preference): provide safe, efficient, and effective nuclear power plants for the U.S. Navy as one of DOE's overriding national security priorities; develop new nuclear energy generation technologies; develop advanced, proliferation-resistant nuclear fuel technologies that maximize energy from nuclear fuel; and maintain and enhance the U.S. nuclear technology infrastructure; protecting the environment and the public by cleaning up contaminated DOE sites and disposing of radioactive waste safely, and properly handling/storing legacy wastes, safely manage and dispose of U.S. spent nuclear fuel and high-level radioactive waste in a manner that protects health, safety and the environment and merits public confidence, including, but not limited to, the safe and secure transport of nuclear waste to a geologic repository.

(3) Environmental, Safety and Health (ES&H)/Quality Assurance (QA)

In order to provide DOE confidence that the requirements of the Sales Agreement will be completed safely and in accordance with ES&H and QA requirements, the Buyer shall describe its capabilities to plan, conduct, staff, and execute all activities under this Sales Agreement in a safe manner consistent with Integrated Safety Management and QA

SALES AGREEMENT DE-SC30-10CC40098

principles. The Buyer shall identify major environmental, safety and health concerns. Describe roles, responsibilities, authorities, and accountability for an Integrated Safety Management System (ISMS) and a Quality Assurance program (consistent with, or equivalent to, 10 CFR 830, Nuclear Safety Management, Subpart A, *Quality Assurance Requirements*, DOE O 414.1C, *Quality Assurance*, DOE-EM, *DOE Environmental Management, Quality Assurance Program Description*, Revision 1, and ASME NQA-1-2004 (or latest edition and addenda), *Quality Assurance Requirements for Nuclear Facility Applications*, as the national consensus standard for work scope implementing QA Criteria of 10 CFR 830, Subpart A, and DOE O 414.1C) in every part and level of the Buyer's organization (e.g., including team members and subcontracts).

(4) Experience and Past Performance

The Buyer shall provide information for three contracts/sales agreements/projects completed within the last three years or current contracts/sales agreements/projects that are similar in size, scope, and complexity to that in this Sales Agreement. Size is defined as dollar value and duration. Scope is defined as the type of work (e.g., melting to declassify, using carbonyl or electro-winning process to decontaminate, etc.). Complexity is defined as performance challenges (e.g., regulatory controls, types of materials and waste, integration and coordination with other DOE or other government contractors and/or integration and coordination with stakeholders). These may be Federal, State, or local governments and/or private entities. The Buyer shall describe for each its experience in the areas of: declassification; decontamination/purification; alloying, fabrication and equipment manufacturing; beneficial end-use of manufactured products in radiologically-controlled applications; disposal of manufactured products; environment, safety, and health programs; interfacing with local, State and Federal governments, regulatory agencies, the community and other stakeholders. The Buyer shall include the following information for each contract/sales agreement/project: contract number/sales agreement number/project identifier; issuing entity; cost/price; contact name, address, and phone number; scope of contract/sales agreement/project and duration of contract/sales agreement/project. The Buyer shall provide specific examples of quality and extent of its experience, identified by team member when applicable. If the Buyer proposes to have portions of the work performed by an entity (ies) other than itself, the Buyer shall provide the identity of the other entity (ies), the section(s) of the Sales Agreement to be performed by that entity (ies) and relevant information concerning the experience of the entity (ies).

In order to provide DOE confidence that the Buyer has the capability to complete the requirements of the Sales Agreement, the Buyer shall

SALES AGREEMENT DE-SC30-10CC40098

describe past performance (how well, from the customers' viewpoint, the Buyer has performed) information for the Buyer and team members for contracts provided under Experience above. For each of the contracts/sales agreements/projects, the Buyer shall submit the past performance information as shown in Attachment 4, Buyer Experience and Past Performance. The Buyer may attach additional pages, if necessary. In addition, the Buyer shall forward Attachment 5, Buyer Past Performance Letter and Questionnaire, for each sales agreement, contract or project cited above to the appropriate point of contact for that contract or project. The point of contact for each contract or project should complete, mail or hand-carry (NOT EMAIL) the questionnaire to the Contracting Officer identified in Attachment 1, Section 5 Submittals prior to the closing date of the RFP are acceptable. The Sales Agreement, contract or project information provided to the point of contact for completion of the questionnaire must be sufficient to enable cross-referencing of Attachment 4 and the returned questionnaires.

4. Proposal Preparation Instructions – Volume III, Price Proposal.

There is no page limitation to the Price Proposal.

The Buyer shall complete Tables 1, 2 and 3 of Exhibit 6. The "Estimated Quantity Weight (Tons Nickel)" represents the approximate quantity available for purchase. The exact quantities to be sold will be determined after weighing each Sub-Lot by the Buyer (see Article VII.E.5). "Lot 1 Price" is defined as the total of the "Estimated Quantity Weight" (converted to pounds) of the Paducah GDP Nickel times the "Price per pound" of the Paducah GDP Nickel. The "Lot 2 Price" is defined as the total of the "Estimated Quantity Weight" (converted to pounds) of the ETTP Nickel times the "Price per pound" of the ETTP Nickel. The Buyer's total proposed Sales Price means the arithmetic sum of the Proposed Sales Price for Lot 1 plus the Proposed Sales Price for Lot 2. This Total Price will be used for price evaluation purposes. This price is an estimate, based on the Estimated Quantity Weight. The price paid by the Buyer will be based on the actual weight of the Nickel. The sum of the Estimated Quantity of Receipt in Tables 2 and 3 must equal the Estimated Quantity Weight by Lot in Table 1, and the sum of the Estimated Payments in Table 3 must be equal to the respective Lot Prices in Table 1.

5. Time, Date and Place Proposal(s) are Due

- a. All proposals are due NO LATER THAN **4:00 PM Eastern Time on July 28, 2010.**
- b. Mailed proposals shall be marked as follows:

From: _____

SALES AGREEMENT DE-SC30-10CC40098

To: U.S. Department of Energy
EM Consolidated Business Center
Disposition of Nickel
250 East 5th Street
Suite 500
Cincinnati, OH 45202
ATTN: Ms. Wilmar C. Delgado

Solicitation No.: **DE-SC30-10CC40098**

Due: **4:00pm EST** **July 28, 2010**
(Time) (Date)

**NOTICE TO DOE MAIL ROOM: DO NOT OPEN. THIS IS A
PROPOSAL UNDER THE ABOVE-IDENTIFIED SOLICITATION.**

- c. **Hand-carried Proposals.** If the offeror elects to forward the proposal by means other than the U.S. Mail, it assumes the full responsibility of insuring that the proposal is received by the date and time specified. Such proposals shall be marked, closed, and sealed as if for mailing. All hand-carried packages shall be delivered **between the hours 8:00 am and 4:00 p.m. Eastern Time workdays by July, 28, 2010.** Deliver to:

U.S. Department of Energy
EM Consolidated Business Center
Disposition of Nickel
250 East 5th Street
Suite 500
Cincinnati, OH 45202
ATTN: Ms. Wilmar C. Delgado

Solicitation No.: **DE-SC30-10CC40098**

Note: Offerors hand-carrying proposals to the above address should arrange for pickup by calling the Contracting Officer (CO) one business day in advance to advice of anticipated delivery time: **Wilmar C. Delgado (513) 246-0566.**

- d. Express- Mailed Proposals shall be marked as follows:

From: _____

To: U.S. Department of Energy

SALES AGREEMENT DE-SC30-10CC40098

EM Consolidated Business Center
Disposition of Nickel
250 East 5th Street
Suite 500
Cincinnati, OH 45202
ATTN: Ms. Wilmari C. Delgado

Solicitation No.: **DE-SC30-10CC40098**

Due: **4:00pm EST** **July 28, 2010**
(Time) (Date)

- e. Notwithstanding which method of delivery the offeror opts to use, the offeror assumes full responsibility of ensuring that the Offer is received at the place and by the date and time specified in the solicitation. Such proposals must be closed and sealed as if for mailing.
- f. Facsimile or electronically transmitted proposals will not be accepted.
- g. Classified Submissions:

Classified submissions must be handled in accordance with this section. The unclassified portion of a proposal submission should be sent to the Contracting Officer identified above.

Please do NOT send packages that might contain potentially – classified information to the address in Cincinnati. If there is ANY possibility of submitting a potentially-classified document, please follow the instructions below. In addition, any classified or potentially-classified communications must be made in writing.

How to have a document reviewed for classification:

If you have any questions, please contact Larry Sparks, Acting ORO Classification Officer at (865) 576-2659, or SparksLM@oro.doe.gov for assistance and to avoid a security incident.

1. All portions of responses and proposals (documents) that are or have a potential to be classified must be prepared in environments certified by DOE for the appropriate combinations of classification level and category as stated in classified briefing you attended. Any automated data processing/computer systems utilized to compose the document(s) must meet DOE requirements for security.
2. The submitted documents must be on paper.

SALES AGREEMENT DE-SC30-10CC40098

3. A correctly filled out "Document-undergoing-classification-review cover sheet" (see next page) must be placed in front of the documents.
4. On top of the assembly created in item 3, above, and behind it, Standard Form 704 red "Secret" cover sheets should be placed. The rear cover sheet faces outward.

Sample "DRAFT—Document Undergoing Classification Review" Cover Sheet

TOP SECRET / SECRET / CONFIDENTIAL (Only When This Page is Filled-in and Appropriate Classification Indicated - - Circle One)	
Document Undergoing Classification Review Protect This Document At the Classification Level and Category Marked on This Page	
TO: _____	
FROM: _____	
DATE: _____	
RESTRICTED DATA This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Unauthorized disclosure subject to Administrative and Criminal Sanctions.	Instructions for Use of this Form (This document is to be an Authorized Classifier to use this Form.) 1. Circle the topmost estimated classification level at the top and bottom of this page (circle only one level). 2. Circle the Restricted Category (Formerly Restricted Data Marking before July 1994). (NOTE: National Security information documents should have only the estimated classification level selected.) 3. Fill in "To," "From," and "Clear" Area. 4. Place this Form on top of the document pending classification review, and place an appropriate cover sheet (SF-702 for Top Secret, SF-704 for Secret, or SF-705 for Confidential) on top of this page. 5. Documents approved under other certain classified information and may or may not contain any classification markings. It must be protected as required on this page. The cover page must remain with this document until a final classification determination has been made and the document has been appropriately marked by an Authorized Classifier. 6. Top Secret documents must be hand verified or routed through an authorized source. Use of any type of machine read service for Top Secret matter is prohibited. (Verifiability of classified matter must be in accordance with DOE Order)
Circle One (If Applicable) NOTE: National Security information documents should have only the estimated classification level circled.	
FORMERLY RESTRICTED DATA Unauthorized disclosure subject to Administrative and Criminal Sanctions. Handle as Restricted Data in Foreign Classifications. Section 144.6, Atomic Energy Act 1954.	
TOP SECRET / SECRET / CONFIDENTIAL (Only When This Page is Filled-in and Appropriate Classification Indicated - - Circle One)	

Classification markings for sample purposes only

5. A transmittal letter must accompany the documents assembled in item 4 above. The entire package must be placed inside an opaque envelope (**inner envelope**) and addressed as follows:

Inner Envelope: U.S. Department of Energy
Oak Ridge Office
Attn: Larry Sparks
Acting Classification Officer, OS-203
P.O. Box 2001
Oak Ridge, TN 37831

6. **Tape the seams of the inner envelope.** The inner envelope must be placed inside a second opaque envelope, (**outer envelope**) and addressed as follows*:

Outer Envelope: U. S. Department of Energy
Oak Ridge Office
Attn: Central Library
P.O. Box 2001
Oak Ridge, TN 37831-8764

*Do **NOT** place the name of the receiver on the outside of the package.

SALES AGREEMENT DE-SC30-10CC40098

7. The package will then need to be sent by U.S. Postal Service as **Registered Mail**.

6. Proposal Acceptance

The Buyer agrees, if its proposal is accepted by the Seller, to purchase all nickel in Lot 1 and Lot 2, at the unit price proposed and to make payment and take receipt of the material within the time specified in Tables 2 and 3 of Exhibit 6.

7. Buyer's Agent

Unless a designation of agent is on file with DOE, if a prospective buyer is submitting a proposal as an agent for another party, the prospective buyer shall submit written proof, either prior to or with the proposal, that it is authorized to act as agent and shall tender the proposal in the name of the principal.

8. Contents of Sales Agreement

Any Sales Agreement resulting from this RFP will contain the Schedule, Articles, and Exhibits, and incorporate by reference Attachment 2 - Agreement Execution Documents.

9. Minimum Proposal Quantity

The minimum proposal quantity shall be both Lot 1 (Paducah GDP) and Lot 2 (ETTP). A proposal for less than both Lots shall be considered non-responsive and will not be further considered for award.

10. Late Submissions, Modifications, and Withdrawals of Proposals

- a. The prospective buyers are responsible for submitting proposals, and any revisions, and modifications, so as to reach the DOE office designated in the Sales Agreement by the time specified in the Sales Agreement. Prospective buyers may use any transmission method authorized by the Sales Agreement (e.g., United States postal service, express mail, hand delivered).
- b. Any proposal, modification, or revision, that is received at the designated DOE office after the exact time specified for receipt of proposals is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late proposal would not unduly delay the sale and:
 - 1) There is acceptable evidence to establish that it was received at the DOE installation designated for receipt of proposals and was under the DOE's control prior to the time set for receipt of proposals; or

SALES AGREEMENT DE-SC30-10CC40098

2) It was the only proposal received.

However, a late modification of an otherwise timely successful proposal, that makes its terms more favorable to the DOE, will be considered at any time it is received and may be accepted.

- c. Acceptable evidence to establish the time of receipt at the DOE installation includes the time/date stamp of the installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of DOE personnel.
- d. If an emergency or unanticipated event interrupts normal DOE processes so that proposals cannot be received at the Government office designated for receipt of proposals by the exact time specified in the Sales Agreement, and urgent DOE requirements preclude amendment of the Sales Agreement closing date, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the Sales Agreement on the first work day on which normal DOE processes resume.
- e. A prospective buyer may withdraw its proposal by written notice at any time before award. Proposals may be withdrawn in person by a prospective buyer or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.
- f. Prospective buyers may submit modifications to their proposals at any time before closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.
- g. The Contracting Officer will promptly notify any prospective buyer if its proposal, modification, or revision was received late, and will inform the prospective buyer whether its proposal will be considered, unless contract award is imminent.

11. Consideration of Proposals

The Seller reserves the right to accept any proposal as may be in the best interest of the Seller.

12. Responsiveness of Proposals

- a. Any prospective buyer that does not include the cover page of this Negotiated Sales Agreement **fully executed (completed and signed)** may be rendered non-responsive.

SALES AGREEMENT DE-SC30-10CC40098

- b. Proposals in response to this Sales Agreement must be compliant with all material terms, including payment dates and receipt dates, conditions, and provisions to be considered responsive.

13. Sales Agreement Award

- a. A written award or acceptance of an Agreement signed by the Contracting Officer and furnished to the Buyer within the time specified for acceptance shall result in a binding contract incorporating all the terms and conditions of this Sales Agreement.
- b. The Seller reserves the right to award to the next prospective buyer(s) in line for award if the Buyer issued the Sales Agreement cannot perform after receipt of award.

14. Proposal Costs

This Sales Agreement does not commit the Seller to pay any costs incurred in the preparation or submission of any proposal.

15. Central Contractor Registration (CCR)

By submission of a proposal the Buyer acknowledges the requirement that it shall be registered in the CCR database prior to award, during performance, and through final performance of the Sales Agreement resulting from this Request for Proposal. Processing time for CCR registration, which normally takes 48 hours, should be taken into consideration when registering. Prospective buyers which are not registered should consider applying for registration immediately upon receipt of this Request for Proposal.

SALES AGREEMENT DE-SC30-10CC40098

ATTACHMENT 2 – AGREEMENT EXECUTION DOCUMENTS

Complete, sign and submit all of the below Agreement Execution Documents with your proposal (in accordance with Proposal Instructions at Attachment 1):

1. DOE Form 580.1, "U.S. Department of Energy End-Use Certificate"
2. Certificate of Independent Price Determination
3. Certification Regarding Debarment, Suspension, Proposed Debarment, Environmental Compliance, and Other Responsibility Matters
4. Type of Business Organization
5. Size of Business
6. Persons Authorized to Negotiate
7. Restriction on Disclosure and Use of Data
8. Facility Clearance
9. E-FOCI Electronic Processing (Foreign Ownership Control and Influence)

SALES AGREEMENT DE-SC30-10CC40098

1. DOE Form 580.1, “U.S. Department of Energy End-Use Certificate” (see Exhibit 4). A “fillable” version of the certificate may be located at: <http://www.directives.doe.gov/pdfs/forms/5801.pdf>

2. Certificate of Independent Price Determination

a. The Buyer certifies that:

- (1) The prices in this proposal have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other prospective buyer or competitor relating to (i) those prices, (ii) the intention to submit an proposal, or (iii) the methods or factors used to calculate the prices;
- (2) The prices in this proposal have not been and will not be knowingly disclosed by the Buyer, directly or indirectly, to any other prospective buyer or competitor before contract award unless otherwise required by law; and
- (3) No attempt has been made or will be made by the Buyer to induce any other concern to submit or not to submit a proposal for the purpose of restricting competition.

b. Each signature on the proposal is considered to be a certification by the signatory that the signatory:

- (1) Is the person in the Buyer’s organization responsible for determining the prices being proposed, and that the signatory has not participated and will not participate in any action contrary to subparagraphs a.(1) through a.(3) above; or
- (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs a.(1) through a.(3), above

(insert full name of person(s) in the Buyer’s organization responsible for determining the prices proposal, and the title of his or her position in the Buyer’s organization);

- (ii) As an authorized agent, does certify that the principals named in subdivision b.(2)(i) above have not participated, and will not participate, in any action contrary to subparagraph a.(1) through a.(3) above; and

SALES AGREEMENT DE-SC30-10CC40098

- (iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs a. (1) through a.(3) above.
- c. If the Buyer deletes or modifies subparagraph a.(2) above, the Buyer must furnish with its proposal a signed statement setting forth in detail the circumstances of the disclosure.

3. Certification Regarding Debarment, Suspension, Proposed Debarment, Environmental Compliance, and Other Responsibility Matters

- a.
 - (1) The Buyer certifies, to the best of its knowledge and belief, that -
 - (i) The Buyer and/or any of its Principals -
 - (A). Are ☐ are not ☐ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.
 - (B). Have ☐ have not ☐ within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of proposals; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and
 - (C). Are ☐ are not ☐ presently indicted for, or otherwise criminally or civilly charged by governmental entity with, commission of any of the offenses enumerated in subdivision a. (1)(i)(B) of this provision.
 - (D). Are ☐ are not ☐ presently indicted for or otherwise criminally or civilly charged by Federal, state or local entity with violation of any environmental laws;
 - (E). Have ☐ have not ☐ within the three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for violation of a Federal, state or local environmental statute or regulation.
 - (i) The Buyer has ☐ has not ☐, within a three-year period preceding this proposal, had one or more contracts terminated for default by any Federal agency.
 - (2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

SALES AGREEMENT DE-SC30-10CC40098

- (3) If the Buyer answers affirmatively to anything in a.(1), above, the Buyer shall include in its proposal an explanation of the circumstances, including the outcome.

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under section 1001, Title 18, United States Code.

- b. The Buyer shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Buyer learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- c. A certification that any of the items in paragraph a. of this provision exists will not necessarily result in withholding of an award under this Request. However, the certification will be considered in connection with a determination of the Buyer's responsibility. Failure of the Buyer to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Buyer non-responsible.
- d. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph a. of this provision. The knowledge and information of a Buyer is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- e. The certification in paragraph a. of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Buyer knowingly rendered an erroneous certification, in addition to the other remedies available to the Government, the Contracting Officer may terminate the Sales Agreement for default.

4. Type of Business Organization

The Buyer represents that:

- a. It operates as ☐ a corporation incorporated under the laws of the State of _____, ☐ an individual, ☐ a partnership, ☐ a nonprofit organization, or ☐ a joint venture.
- b. If the Buyer is a foreign entity, it operates as:
☐ an individual, ☐ a partnership, ☐ a nonprofit organization, ☐ a joint venture, or ☐ a corporation registered for business in _____(country).
- c. If the Buyer is a corporation, it is:

SALES AGREEMENT DE-SC30-10CC40098

☐ independent (not owned or controlled by another company), ☐ owned or controlled by _____ (corporation/company) registered for business in _____ (state/country).

- d. If the Buyer is owned or controlled by another, state the relationship (e.g., wholly owned subsidiary, etc.): _____.
- e. The Buyer agrees to provide additional information relating to the above representations if requested to do so by the CO.

5. Size of Business

a. Representations:

- (1) The Buyer represents as part of its offer that it ☐ is, ☐ is not a small business concern. If the Buyer represented itself as a small business concern in this paragraph continue to paragraph a.(2); If the Buyer represented itself as not a small business concern, then go to paragraph b.
- (2) The Buyer represents, for general statistical purposes, that it ☐ is, ☐ is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.
- (3) The Buyer represents as part of its offer that it ☐ is, ☐ is not a women-owned small business concern.
- (4) The Buyer represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern. If the Buyer represented itself as a veteran-owned small business concern in this paragraph continue to paragraph a.(5); If the Buyer represented itself as not a veteran-owned small business concern, then go to paragraph a.(6).
- (5) The Buyer represents as part of its offer that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.
- (6) The Buyer represents, as part of its offer, that –
 - (i) It ☐ is, ☐ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

SALES AGREEMENT DE-SC30-10CC40098

- (ii) It ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (a)(6)(i) of this provision is accurate of the HUBZone small business concern or concerns that are participating in the joint venture. [*The Buyer shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.*] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

b. *Definitions.* As used in this provision--

“Service-disabled veteran-owned small business concern”—

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

“Small business concern,” means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

“Veteran-owned small business concern” means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

SALES AGREEMENT DE-SC30-10CC40098

"Women-owned small business concern," means a small business concern --

- (1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

6. Persons Authorized To Negotiate

The Buyer represents that the following individuals are authorized to negotiate on its behalf.

Typed/Printed Name	Title	Telephone Number

7. Restriction on Disclosure and Use of Data

- a. Restriction on disclosure and use of data. Buyers that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Seller except for evaluation purposes shall complete the following:

- (1) The following statement applies _____ YES _____ NO:

"This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed--in whole or in part--for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this Buyer as a result of--or in connection with-- the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction is as follows" **(Buyer Fill-In):**

SALES AGREEMENT DE-SC30-10CC40098

(2) Mark each sheet of data it wishes to restrict with the following legend:

“Use or disclosure of data contained on this sheet is subject to the restrictions identified at Attachment 2, Agreement Execution Documents, Restriction on Use of Data.”

8. Facility Clearance

Prospective buyers are required to undergo a Foreign Ownership Control and Influence (FOCI) review in order to acquire the personnel clearances necessary to work with the Nickel. Custodial responsibility and title for the Nickel would pass to the Buyer in accordance with contractual requirements. The requirements for the FOCI review include, but are not limited to, DOE O 470.2B, Independent Oversight and Performance Program (Oct. 31, 2002); DOE O 470.4A, Safeguards and Security Program (May 25, 2007); DOE M 470.4-1, Change 1, Safeguards and Security Program Planning and Management (Aug. 26, 2005); DOE M 470.4-2A, Physical Protection (July 23, 2009); DOE M 470.4-4A, Information Security Manual (Jan. 16, 2009); DOE M 470.4-5, Personnel Security (restricted) (Aug. 26, 2005); DOE O 471.1B, Identification and Protection of Unclassified Controlled Nuclear Information (Mar. 1, 2010); DOE O 471.3, Identifying and Protecting Official Use Only Information (Apr. 9, 2003); DOE M 471.3-1, Manual for Identifying and Protecting Official Use Only Information (Apr. 9, 2003); DOE G 471.3-1, Guide to Identifying Official Use Only Information (Apr. 9, 2003); DOE M 475.1-1B, Manual for Identifying Classified Information (Aug. 28, 2007); DOE O 475.2, Identifying Classified Information (Aug. 28, 2007). Latest revisions of all DOE Directives shall be used.

A facility clearance and FOCI information are required when the contract or subcontract to be awarded is expected to require employees to have access authorizations. Prospective buyers which have either a Department of Defense or a Department of Energy facility clearance generally need not resubmit the following foreign ownership information unless specifically requested to do so. Instead, provide your DOE facility clearance code or your DoD assigned commercial and government entity (CAGE) code. If uncertain, consult the office which issued this Sales Agreement.

(a) Use of certificate pertaining to foreign interests, Standard Form 328

(1) The contract work anticipated by this Sales Agreement will require access to classified information or special nuclear material. Such access will require a facility clearance for the buyer organization and access authorizations (security clearances) for Buyer personnel working with the classified information or special nuclear material. To obtain a facility clearance the Buyer must submit a certificate pertaining to foreign interests, Standard Form 328, and all required supporting documents to form a complete FOCI package.

SALES AGREEMENT DE-SC30-10CC40098

- (2) Information submitted by the Buyer in response to the Standard Form 328 will be used solely for the purposes of evaluating foreign ownership, control or influence and will be treated by DOE, to the extent permitted by law, as business or financial information submitted in confidence.
 - (3) Following submission of a Standard Form 328 and prior to contract award, the Buyer shall immediately submit to the Contracting Officer written notification of any changes in the extent and nature of FOCI which could affect the Buyer's answers to the questions in Standard Form 328. Following award of a contract, the Buyer must immediately submit to the Cognizant Security Office written notification of any changes in the extent and nature of FOCI which could affect the Buyer's answers to the questions in Standard Form 328. Notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice must also be furnished concurrently to the cognizant security office.
- (b) Definitions
- (1) Foreign interest means any of the following:
 - (i) a foreign government, foreign government agency, or representative of a foreign government;
 - (ii) any form of business enterprise or legal entity organized, chartered or incorporated under the laws of any country other than the United States or its possessions and trust territories; and
 - (iii) any person who is not a citizen or national of the United States.
 - (2) Foreign Ownership, Control, or Influence means the situation where the degree of ownership, control, or influence over a buyer by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information or special nuclear material may result.
- (c) Facility clearance means an administrative determination that a facility is eligible to access, produce, use or store classified information, or special nuclear material. A facility clearance is based upon a determination that satisfactory safeguards and security measures are carried out for the activities being performed at the facility. It is DOE policy that all buyers or subsequent-buyers requiring access authorizations be processed for a facility clearance at the level appropriate to the activities being performed under the contract. Approval for a facility clearance shall be based upon:

SALES AGREEMENT DE-SC30-10CC40098

- (1) a favorable FOCI determination based upon the Buyer's response to the ten questions in Standard Form 328 and any required, supporting data provided by the Buyer;
 - (2) a contract or proposed contract containing the appropriate security clauses;
 - (3) approved safeguards and security plans which describe protective measures appropriate to the activities being performed at the facility;
 - (4) an established reporting identification symbol code for the nuclear materials management and safeguards reporting system if access to nuclear materials is involved;
 - (5) a survey conducted no more than six (6) months before the facility clearance date, with a composite facility rating of satisfactory, if the facility is to possess classified matter or special nuclear material at its location;
 - (6) appointment of a facility security officer, who must possess or be in the process of obtaining an access authorization equivalent to the facility clearance; and, if applicable, appointment of a materials control and accountability representative; and
 - (7) access authorizations for key management personnel who will be determined on a case-by-case basis, and must possess or be in the process of obtaining access authorizations equivalent to the level of the facility clearance.
- (d) A facility clearance is required prior to the award of a contract requiring access to classified information and the granting of any access authorizations under a contract. Prior to award of a contract, the DOE must determine that award of the contract to the Buyer will not pose an undue risk to the common defense and security as a result of its access to classified information or special nuclear material in the performance of the contract. The Contracting Officer may require the Buyer to submit such additional information as deemed pertinent to this determination.
- (e) A facility clearance is required even for contracts that do not require the Buyer's corporate offices to receive, process, reproduce, store, transmit, or handle classified information or special nuclear material, but which require DOE access authorizations for the Buyer's employees to perform work at a DOE location. This type facility is identified as a non-possessing facility.
- (f) Except as otherwise authorized in writing by the Contracting Officer, the provisions of any resulting contract must require that the Buyer insert provisions similar to the foregoing in all subcontracts and purchase

SALES AGREEMENT DE-SC30-10CC40098

orders. Any subcontractors requiring access authorizations for access to classified information or special nuclear material shall be directed to provide responses to the questions in Standard Form 328, certificate pertaining to foreign interests, directly to the Buyer or the Contracting Officer for the prime contract.

Notice to prospective buyers - contents review (please review before submitting)

Prior to submitting the Standard Form 328, required by paragraph (a)(1) of this clause, the Buyer should review the FOCI submission to ensure that:

- (1) the Standard Form 328 has been signed and dated by an authorized official of the company;
- (2) if publicly owned, the Buyer's most recent annual report, and its most recent proxy statement for its annual meeting of stockholders have been attached; or, if privately owned, the audited, consolidated financial information for the most recently closed accounting year has been attached;
- (3) a copy of the company's articles of incorporation and an attested copy of the company's by-laws, or similar documents filed for the company's existence and management, and all amendments to those documents;
- (4) a list identifying the organization's owners, officers, directors, and executive personnel, including their names, social security numbers, citizenship, titles of all positions they hold within the organization, and what clearances, if any, they possess or are in the process of obtaining, and identification of the government agency(ies) that granted or will be granting those clearances; and
- (5) a summary FOCI data sheet.

Note: A FOCI submission must be attached for each tier parent organization (i.e., ultimate parent and any intervening levels of ownership). If any of these documents are missing, award of the contract cannot be completed.

9. E-FOCI Electronic Processing

In furtherance of "8. Facility Clearance", and Attachment 1, Proposal Preparation Instructions, prospective buyers that do not possess a Department of Defense (DoD) or a Department of Energy (DOE) Facility Clearance shall submit the information requested via <https://foci.td.anl.gov> website. Prospective buyers that possess a DoD or DOE Facility Clearance shall submit agency

SALES AGREEMENT DE-SC30-10CC40098

documentation that grants the facility clearance, including their company's assigned DoD commercial and government entity (CAGE) code or DOE facility code.

Please check, as appropriate:

- ☐ Facility Clearance documentation has been submitted via <https://foci.td.anl.gov>
- ☐ Documentation granting the Buyer's facility clearance is attached

Company Name and Address:

In relation to this Sales Agreement, my company is responding as (please check, as appropriate):

- ☐ Buyer
- ☐ Teaming Partner
- ☐ Subcontractor
- ☐ Joint Venture
- ☐ Other (please specify):

SALES AGREEMENT DE-SC30-10CC40098

ATTACHMENT 3 - COMPETITIVE AWARD DECISION FACTORS

1. ANALYSIS OF PROPOSALS

- A. The Environmental Management Consolidated Business Center (EMCBC) will establish a team to evaluate the proposals submitted for this sale in accordance with the Technical Competitive Award Decision Factors described within this Attachment.
- B. The instructions set forth in Attachment 1 are designed to provide guidance to the Buyer concerning the documentation that will be evaluated. The Buyer must furnish adequate and specific information in its proposal.
- C. Any exceptions, deviations, or conditional assumptions to the terms of this Sales Agreement, including applicable regulations, unless specifically requested in the Sales Agreement may make the offer unacceptable for an award.
- D. Completion of Agreement Execution Documents in Attachment 2 is required.
- E. The responsibility and financial capability evaluation will consider if a prospective buyer has adequate financial resources to purchase the Nickel or has the ability to obtain them (Attachment 1, Section 2.b(4)-(5)).
- F. **This is a sale and not a procurement.** The Government intends to analyze proposals and award a Sales Agreement without further interaction with prospective buyers. Therefore, the Buyer's initial proposal should contain the Buyer's best terms from a price and technical standpoint. The Government reserves the right to have further interactions with prospective buyers and/or select the Buyer in a manner the Seller determines to be appropriate, consistent with the Sales Agreement and applicable Federal Property Laws and Regulations.

2. BASIS FOR SALES AGREEMENT AWARD

The Seller intends to award one Sales Agreement to the responsible Buyer whose proposal is responsive to the Request for Proposals to award a Sales Agreement. Award will be made to the responsive proposal offering the conditions most favorable to DOE, that is, the proposal offering the best value to the Government. Selection of best value to the Government will be achieved through a process of evaluating the Pass/Fail criteria, the strengths and weaknesses of each potential Buyer's proposal in accordance with the Technical Competitive Award Decision Factors below, and the Sales Price. Assuming the Buyer meets the Pass/Fail Criteria, the Competitive Award Decision Factors, in combination, are more important than evaluated Sales Price. The DOE intends to evaluate proposals and award without discussions; however, the DOE reserves the right to conduct discussions if deemed necessary.

3. TECHNICAL COMPETITIVE AWARD DECISION FACTORS

A. PASS/FAIL CRITERIA

DOE will evaluate if the Buyer has demonstrated that the following conditions are met at the time of proposal.

- (1). The Buyer has current, signed, approved authorization by DOE to possess and process classified (confidential-restricted data) material at a DOE (safeguards and security) approved facility. The lack of such authorization may make the offer unacceptable for an award without discussions. If authorization will not be approved and effective on the day of proposal submittal, DOE will evaluate the Buyer's detailed, credible, resource-loaded Primavera schedule outlining activities required to obtain such authorization prior to initial receipt.
- (2). The Buyer has a current, signed, approved NRC (or Agreement State) license or demonstrates it will be operating under DOE's regulatory authority to possess and process contaminated material. The lack of such authority may make the offer unacceptable for an award. If authorization will not be approved and effective on the day of proposal submittal, DOE will evaluate the Buyer's detailed, credible, resource-loaded Primavera schedule outlining activities required to obtain such license or authority prior to initial receipt.
- (3). The Buyer has current, signed, approved financial surety for: (1) the clean up, closure, and post-closure care of their nickel disposition storage and processing facilities, (2) the clean up of any accidental releases of radioactive and/or hazardous constituents during the active life of their nickel disposition facilities; (3) compensation of any third parties for any resulting bodily injury or property damage, and (4) the packaging, transportation, and disposal of nickel for any phase in the Nickel disposition process, e.g., decontamination, declassification, alloying, fabrication, and end-use. This may be evidenced by financial assurance as part of licensing and permitting requirements and processes, and/or by the purchase of a performance bond for those activities not already covered under existing licenses/permits. The amount of surety shall cover all nickel disposition activities, and shall be estimated, with justification by the Buyer, as part of its proposal. DOE will evaluate the Buyer's financial assurance, and/or the plan and schedule to obtain such, to ensure it covers all nickel disposition activities.

B. IMPORTANCE OF COMPETITIVE AWARD DECISION FACTORS

In addition to the above Pass/Fail Criteria, the proposals will be evaluated using information submitted by the Buyers on the following factors: Technical Approach and Controls, Extent to Which End-Use Achieves DOE Missions, Environmental, Safety and Health/Quality Assurance and Experience and Past Performance. The relative weighting is as follows:

SALES AGREEMENT DE-SC30-10CC40098

Evaluation Factor	Weight
Technical Approach and Controls	40
Extent to Which End-Use Achieves DOE Missions	25
Environmental, Safety and Health/Quality Assurance	20
Experience and Past Performance	15
TOTAL	100

C. COMPETITIVE AWARD DECISION FACTORS

(1) Technical Approach and Controls

DOE will evaluate the degree of the Buyer's understanding of the requirements of the Sales Agreement; DOE will also evaluate the degree to which the Buyer has demonstrated the capability to perform these requirements within the United States.

DOE will evaluate the Buyer's proposed approach, its capability, and maturity of its technology, the plan and schedule to complete the steps required for disposition of the Nickel. DOE will evaluate how the proposed approach addresses requirements, e.g., facility authorization, licenses, permits, and approvals, and how the proposed approach can meet the disposition schedule. DOE will evaluate the extent to which the approach appropriately addresses:

Declassification and Decontamination of the Nickel (Steps 1 and 2), including:

- Receipt of 15,300 tons of classified, contaminated nickel;
- Transportation of the nickel ingots and shredded nickel from their respective storage locations to a DOE-approved processing facility to declassify and decontaminate the Nickel (include the size, location and type of facility(ies));
- Application of regulatory requirements (DOE directives (e.g., safeguards and security), facility authorization, NRC (or Agreement State) license (or DOE authorization) during declassification and decontamination;
- The declassification and decontamination/purification procedures at a DOE (safeguards and security) approved facility;
- the expected quality of the product at each step; the residual radioactivity on the Nickel shall meet the IAEA clearance levels, e.g., Technetium-99 less than 27 pCi per gram or 0.00000000027 Ci/g;
- Title Transfer and sale will occur only upon DOE certification of declassification and decontamination of the Nickel and compliance with DOE property management requirements. The cognizant DOE Program Office/Security Authority will act as the certifying official;
- Decontaminate, decommission and/or dispose of material, equipment, facilities, tools and infrastructure consistent with the applicable rules and regulations after completion of the processes, and in accordance with safeguards and security requirements;
- Projected schedule for complete receipt, transportation, declassification and decontamination of the Nickel (a reasonable timeframe for receipt of all of the material is sixty (60) months from the date of receipt of the first Sub-Lot). Title

SALES AGREEMENT DE-SC30-10CC40098

transfer of all Nickel shall be completed within ten (10) years from the date of initial receipt.

Manufacturing, End-Use and Disposal (Steps 3-5), including:

- Application of regulatory requirements (NRC, Agreement State or DOE (may include transfer via an interagency agreement between the DoD and DOE)), in manufacturing, end-use and disposal;
- Alloying, fabrication, end-use and disposal of manufactured products;
- The expected quality of the product at each step, the alloying plan;
- Processing and fabrication of the Nickel into a composition and form (include the size, location and type of alloying, equipment and fabrication facility(ies));
- Projected schedule to alloy and/or fabricate;
- The alloying and/or fabrication procedures;
- The expected end-product(s);
- Deployment of the end-product in accordance with the Sales Agreement requirements (include the size, location and type of end-use facility(ies));
- Functions and design life of the end-product(s);
- Disposal of end-product(s) and any nickel-containing items at the end of its useful life in a DOE-approved, regulated disposal facility(ies);
- Decontaminate, decommission and/or dispose of material, equipment, facilities, tools and infrastructure consistent with the applicable rules and regulations after completion of the processes;
- Projected schedule for alloying, fabrication, manufacture, deployment of end-product(s), and disposal of the end-product(s) at the end of its useful life.

DOE will evaluate the proposed approach, plan, and schedule to establish perpetual domestic regulatory and administrative control of the nickel material (Article XI). DOE will evaluate the extent to which the Buyer has demonstrated how the operation of any required facilities will be under an NRC (or Agreement State) activity/location-specific license or in accordance with applicable DOE requirements (e.g., regulations, DOE orders, DOE policies). DOE will evaluate the extent to which the Buyer's proposed approach accomplishes perpetual inventory control and chain-of-custody control for the Buyer and any and all subsequent recipient(s). DOE will evaluate the Buyer's approach to tracking and reporting of the Nickel, from initial purchase until the end-product is disposed of in a regulated facility. DOE will evaluate degree to which the Buyer's proposed approach will maintain inventory reporting and tracking, domestic inventory verification, inventory control, chain-of-custody control, oversight and performance enforcement, for Buyer and any and all subsequent recipient(s) (e.g., the Buyer's use of performance bonding for subsequent recipient(s)).

DOE will evaluate the Buyer's business management systems and resources used to execute the technical approach, as well as the Buyer's capabilities to utilize these systems. DOE will evaluate the Buyer's project management approach and business systems (technical, schedule (including a summary Gantt Chart and Logic Network), change management, organizational

SALES AGREEMENT DE-SC30-10CC40098

management structure, work scope risks and uncertainties (including approach for elimination, avoidance and mitigation), Work Breakdown Structure) to meet the requirements of the Sales Agreement. DOE will also evaluate the Buyer's identification of key facilities, equipment, and interfaces that will be a part of the Interface MOUs (Article VIII).

(2) Extent to Which End-Use Achieves DOE Missions

DOE will evaluate the extent to which the Buyer's proposed approach includes end-uses with the following characteristics (in radiologically-controlled applications) to achieve DOE missions. Changes to end-use are prohibited, and are considered a breach of the Sales Agreement. All of the following meet the "radiologically-controlled" requirement, assuming the end-product is contained/packaged, identified, inventoried, tracked and verified in accordance with Article XI.

DOE will evaluate the extent to which the Buyer has incorporated DOE's preferred end-use characteristics in the proposal. These are highly preferable, worth double as compared to those listed in the next paragraph, and are listed in no order of importance or preference: (a) enhance electricity storage; (b) improve the U.S. electrical distribution system; (c) regulate peak load frequency; (d) modernize the U.S. energy infrastructure, (e) ensure the productive and optimal use of energy resources while limiting environmental impact.

DOE will evaluate other, less-preferable end-uses that achieve DOE missions with the following characteristics. These are worth one-half (50%) of the weight as compared to the five factors ((a) – (e)) listed above (in no order of importance or preference): providing safe, efficient, and effective nuclear power plants for the U.S. Navy as one of DOE's overriding national security priorities; developing new nuclear energy generation technologies; developing advanced, proliferation-resistant nuclear fuel technologies that maximize energy from nuclear fuel; and maintaining and enhancing the U.S. nuclear technology infrastructure; protecting the environment and the public by cleaning up contaminated DOE sites and disposing of radioactive waste safely, and properly handling/storing legacy wastes, safely storing radioactive waste, and protecting the environment and the public; safely manage and dispose of U.S. spent nuclear fuel and high-level radioactive waste in a manner that protects health, safety and the environment; and merits public confidence, including, but not limited to, the safe and secure transport of nuclear waste to a geologic repository.

(3) Environmental, Safety and Health (ES&H)/Quality Assurance (QA)

DOE will evaluate the Buyer's capability to perform the requirements of the Sales Agreement safely and in accordance with ES&H and QA requirements. DOE will evaluate the Buyer's capabilities to plan, conduct, staff, and execute all activities under this Sales Agreement in a safe manner consistent with

SALES AGREEMENT DE-SC30-10CC40098

Integrated Safety Management and QA principles. DOE will evaluate the Buyer's proposed roles, responsibilities, authorities, and accountability for an Integrated Safety Management System (ISMS) and a Quality Assurance program (consistent with, or equivalent to, 10 CFR 830, Nuclear Safety Management, Subpart A, *Quality Assurance Requirements*, DOE O 414.1C, *Quality Assurance*, DOE-EM, *DOE Environmental Management, Quality Assurance Program Description*, Revision 1, and ASME NQA-1-2004 (or latest edition and addenda), *Quality Assurance Requirements for Nuclear Facility Applications*, as the national consensus standard for work scope implementing QA Criteria of 10 CFR 830, Subpart A, and DOE O 414.1C) in every part and level of the Buyer's organization (e.g., including team members and subcontracts).

(4) Experience and Past Performance

The Buyer (and team members, if any) will be evaluated on the quality and extent of its experience in areas that are similar in size, scope and complexity to that in the Sales Agreement (e.g., declassification; decontamination/purification; alloying, fabrication and equipment manufacturing; beneficial end-use of manufactured products in radiologically-controlled applications; disposal of manufactured products; environment, safety, and health programs; interfacing with local, State and Federal governments, regulatory agencies, the community and other stakeholders). DOE will consider reference information provided in response to Attachments 4 and 5 and any other information that it considers relevant, including but not limited to information from other government and non-government sources.

4. SALES PRICE

The Buyer's Total Sales Price, as documented in Table 1, Sales price, will not be point scored or adjectively rated, but will be used in determining the best value to the Government. In determining the best value to the Government, the Technical Competitive Award Decision Factors are significantly more important than the total sales price.

The "Lot 1 Price" is defined as the total of the "Estimated Quantity Weight" (converted to pounds) of the Paducah GDP Nickel times the "Price per pound" of the Paducah GDP Nickel. The "Lot 2 Price" is defined as the total of the "Estimated Quantity Weight" (converted to pounds) of the ETTP Nickel times the "Price per pound" of the ETTP Nickel. The Buyer's total proposed Sales Price means the arithmetic sum of the Proposed Sales Price for Lot 1 plus the Proposed Sales Price for Lot 2.

(The actual price paid by the Buyer, based on the actual weight of the Nickel, will not be known until official weighing prior to Title Transfer (see Articles V.D.2.b and VII.E). Because these actual weights will not be known at time of proposal evaluation, they will not be used for price evaluation.)

**ATTACHMENT 4 - BUYER EXPERIENCE AND PAST PERFORMANCE
REFERENCE INFORMATION WORKSHEET**

Name of Offeror: _____

Name of parent company contract awarded to if different from Offeror:

Client Name: _____ **Contract #:** _____

Client Point of Contact:

Name: _____

Title: _____

Telephone: _____

Address: _____

Period of Performance:

Start Date: _____ Completion/Termination Date: _____

Type of Contract: _____ **Dollar Amount:** _____

Description of Services including the identification of the portion of the work (size, scope and complexity) performed by the Offeror during this contract (see Attachment 1, Section 3.b(4) for definitions of size, scope, and complexity):

Regulator Point(s) of Contact (Provide the information below for the principal regulators that were responsible for oversight or compliance.)

Name: _____

Agency: _____

Address: _____

Telephone: _____

SALES AGREEMENT DE-SC30-10CC40098

ATTACHMENT 5 - BUYER PAST PERFORMANCE LETTER & QUESTIONNAIRE

Past Performance Letter

Date _____

Dear _____:

We are participating in a Request for Proposal issued by the U.S. Department of Energy (DOE) to award a Sales Agreement for nickel material. We are asking for your assistance in completing the attached questionnaire and forwarding to the DOE to aid in its evaluation of our past performance. Please return the completed questionnaire to the following address within ten calendar days:

United States Department of Energy
Environmental Management Consolidated Business Center
Office of Contracting, Attn: Wilmar C. Delgado
250 E 5th Street, Suite 500
Cincinnati, OH 45202

Please mark the envelope:

“TO BE OPENED ONLY BY THE CONTRACTING OFFICER”

Please remember to provide your contact information at the end of the questionnaire.

Please use the following definitions to provide your ratings:

- 0 - Unsatisfactory - The contractor failed to meet the minimum contract requirements.
- 1 - Poor - Performance was less than expected. The contractor performed below minimum contract requirements.
- 2 - Satisfactory - Performance met expected levels. The contractor met the minimum contract requirements.
- 3 - Good - Contractor performance exceeded expected levels. The contractor performed above minimum contract requirements and displayed a thorough understanding of contract requirements.
- 4 - Excellent - Contractor performance substantially exceeded expected levels of performance. The contractor consistently performed above contract requirements, displayed an overall superior understanding of contract requirements, and used innovative approaches leading to enhanced performance.
- NA - Not applicable
- DK - Don't know. No knowledge available to rate this question.

Respondents are strongly encouraged to provide an explanatory narrative under REMARKS. If more space is needed, please attach additional pages.

Past Performance Questionnaire

0=Unsatisfactory, 1=Poor, 2=Satisfactory, 3=Good, 4=Excellent, NA=Not Applicable, DK=Don't Know

Name of Contractor:

Did the contractor adhere to contract schedules? 0 1 2 3 4 NA DK

Did the contractor report material tracking records
that were of good quality? 0 1 2 3 4 NA DK

Was the Statement of Work executed effectively by
the contractor in a consistently high-quality manner? 0 1 2 3 4 NA DK

Was the contractor effective in subcontract
management? 0 1 2 3 4 NA DK

Did the contractor's corporate office effectively
support your contract? 0 1 2 3 4 NA DK

Would you select this contractor again? Yes_____ No_____

Name of Contractor:

Remarks:

Respondent: Please fill in the following table:

Item	Fill-In
Your Name	
Title	
Organization Name	
Organization Address (including City, State, ZIP)	
Telephone Number (w/area code)	
Facsimile Number (w/area code)	
e-mail address	